Committee Substitute

for

House Bill 4338

BY DELEGATES FAST, R. MILLER, HANSHAW, SHOTT, ELDRIDGE,
ROBINSON, LOVEJOY, LANE, WILLIAMS, ISNER AND FOSTER

(BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY)

[Passed March 10, 2018; in effect July 1, 2018.]
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terms; creating Division of Administrative Services within Department of Military Affairs and Public Safety; defining scope of duties for Division of Administrative Services; authorizing appointment of director; setting qualifications for director; providing authority and duties for director; authorizing director to enter into memorandum of understanding with certain agencies to provide services; transferring certain employees, responsibilities, equipment and records to Division of Administrative Services; providing for classified service coverage for certain employees; creating Division of Corrections and Rehabilitation within Department of Military Affairs and Public Safety; eliminating Division of Corrections and Division of Juvenile Services and transferring powers and authority to Division of Corrections and Rehabilitation; transferring certain powers and authority of Regional Jail and Correctional Facility Authority to Division of Corrections and Rehabilitation; setting forth purpose and legislative intent; requiring chapter be construed in favor of public safety; authorizing appointment of commissioner of Division of Corrections and Rehabilitation; requiring commissioner subscribe to oath and execute bond; abolishing office of Commissioner of Division of Corrections, Director of Juvenile Services, and Executive Director of Regional Jail and Correctional Facility Authority; vesting powers of abolished offices in office of commissioner of Division of Corrections and Rehabilitation; setting salary for commissioner; setting requirements for commissioner; setting powers and duties of commissioner; providing for the hiring of officers and employees of corrections institutions; providing authority for commissioner or designee to manage and administer certain affairs of correctional units and juvenile facilities under the division’s jurisdiction; providing powers of superintendents of institutions or correctional units; requiring commissioner to investigate complaints made against superintendents or employees of institutions; requiring preemployment drug screening of prospective correctional employees; providing authority for superintendent and commissioner over employees; providing exceptions; authorizing hiring of correctional
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officer employees without regard to position on register; providing for compensation of employees; providing for reimbursement or provision of traveling and other expenses under certain circumstances; providing for certain reporting by commissioner and chief officers of institutions to State Auditor; prohibiting special compensation of officers and employees; providing penalties for violations of provision; setting forth certain law-enforcement powers of employees; establishing Corrections Special Operations Team; authorizing commissioner to prescribe design of employee uniforms; providing limitations on commissioner and municipalities with respect to uniform design; establishing criminal penalties for wearing or using uniform, badge, identification card or insignia with intent to deceive; establishing criminal penalty for falsely representing oneself as officer or employee of division; establishing criminal penalty for employee using position to threaten or coerce any other person to receive benefit; providing exceptions; identifying institutions to be managed by commissioner; authorizing certain contracts; authorizing the establishment of certain work and study release units; authorizing contract with nonprofit or charitable entities; setting terms of placing person in half-way house or transitional housing facility; placing adult persons sentenced to incarceration under the jurisdiction of the commissioner in the custody of the commissioner; authorizing transfer of adult inmates among institutions; granting contracting authority to commissioner for county jails or other incarceration facilities; directing establishment of a per diem rate for felony sentenced inmates; authorizing transfer of mentally disturbed adult prisoners or inmates; directing commissioner evaluate all facilities for most appropriate space to house each type of inmate; requiring consultation with Juvenile Justice Commission regarding current or prospective juvenile facilities; requiring report on evaluation to Joint Committee on Government and Finance; prohibiting conversion of juvenile facilities to adult facilities or adult facilities to juvenile facilities absent legislative authorization; vesting title to certain properties in the state; making commissioner custodian of deeds; authorizing lease of
West Virginia penitentiary in Moundsville, subject to certain conditions, with approval of
secretary of Military Affairs and Public Safety; exempting division from purchasing;
providing procedures to be followed when purchasing is done by division; providing
conditions for emergency purchasing; authorizing certain agreements with medical
schools and higher education institutions; authorizing mutual aid agreements, subject to
certain conditions, with approval of secretary of Military Affairs and Public Safety;
continuing certain funds from Regional Jail and Correctional Facility Authority; providing
for transfer of fund administration from Regional Jail and Correctional Facility Authority or
its executive director; limiting use of jail funds to certain operations and expenses;
authorizing investment under certain circumstances; identifying contents of funds;
authorizing certain expenditures of funds; requiring incarceration of persons by counties
in jail facilities; providing exceptions; clarifying authority of circuit and magistrate courts
with respect to detention and commitment; requiring payment by county or municipality for
per-day cost of incarceration; providing for establishment of per-day cost; capping per-day
cost for a period of time; providing conditions for calculating per-day cost; establishing
period of time for which county is responsible for costs of housing and maintaining inmates
in its facilities; directing preparation of a report on feasibility of phasing out per diem
charges; directing contents of report; continuing Jail Operations Partial Reimbursement
Fund; establishing source of revenues; providing for use of funds; providing for
administration of fund; granting rule-making authority; granting authority to develop
policies; continuing legislative rules and policies of former Division of Corrections, Division
of Juvenile Services, and Regional Jail and Correctional Facility Authority; authorizing
furlough programs; authorizing rule-making; providing certain parameters for furlough
program; granting immunity, with certain limitations, to certain persons and entities for
claims arising out of furlough program; authorizing electronic monitoring; requiring
commissioner charge reasonable fee; providing exceptions; providing for deposit and use
of fees; setting parameters for electronic devices; authorizing continuation and
establishment of diagnostic and classification subdivisions; requiring all persons
committed to the custody of the division to undergo diagnosis and classification; requiring
division perform mental health preliminary screenings; authorizing commissioner to
transfer inmates; providing conditions for transfer under certain circumstances;
authorizing monitoring of inmate telephone calls, inmate mail, and inmate electronic
correspondence; requiring notice to inmates of monitoring; providing procedures for and
restrictions on monitoring; excepting communications to or from attorneys; requiring
promulgation of policy directive establishing record-keeping procedures; providing for use
of records when inmate is charged with crimes based on conversations; authorizing
establishment of trustee accounts; providing for handling of money and personal property
of inmates or residents; requiring certain incarcerated offenders make reimbursement
toward cost of incarceration; requiring certain reports concerning the average cost per
inmate; authorizing facility superintendent expend up to one half of inmate’s money to
satisfy certain obligations; providing for distribution of funds upon inmate departure or
death; providing for notice of credit of money credited to former inmate or resident under
certain circumstances; directing establishment of inmate or resident benefit funds for each
institution; requiring reports on inmate benefit funds; continuing special revenue account;
identifying sources of moneys for inmate or resident benefit funds; providing for use of
funds in inmate or resident benefit funds; requiring division assist inmates in developing
financial plans to meet any child support obligations; directing deduction by superintendent
from inmate earnings for all legitimate court-ordered financial obligations; providing for
civil judgments awarded to inmate to be subject to deductions for child support, restitution
or other court-ordered obligations; directing investment of remaining funds with Municipal
Bond Commission; limiting reimbursement rate to medical service providers for services
outside division facilities; authorizing assessment of certain reasonable charges against
inmates for certain services provided by the state; providing exceptions to authority to
assess charges; authorizing interpretive rules; directing preparation and preservation of
records for indictment and conviction, or charges and adjudication, and a register
containing certain information; authorizing establishment of plant for the manufacture of
license plates, road signs, or markers; making it unlawful for state employee or official to
obtain license plates, road signs, or markers other than through plant; prohibiting certain
persons from making gifts to or receiving gifts from inmates or residents; directing
commissioner promulgate disciplinary rules and policies; setting penalties for violations;
requiring commutation of certain sentences for good conduct; providing exceptions;
setting conditions and procedures for commutation of sentences; authorizing Governor to
authorize commissioner to consent to transfer or exchange of inmates in his or her custody
in accordance with treaty between United States and a foreign country; providing for
handling of mentally ill patients; disallowing mentally ill patients being denied parole or a
parole hearing based upon condition; providing for facts to be presented to superintendent
if convicted person is believed to be mentally ill, intellectually disabled, or addicted;
providing for application of transfer to be filed; providing for appointment of special counsel
for convict who is indigent; providing for notice to convicted person; setting forth process
after application for transfer is filed; authorizing establishment of work program for
qualified inmates; setting conditions on work program; providing immunity for certain
persons and entities; authorizing employment of Director of Employment and Director of
Housing for released inmates; setting authority and duties of directors; directing
commissioner establish Bureau of Prisons and Jails; directing appointment of assistant
commissioner to oversee Bureau of Prisons and Jails; transferring duties and funds of
Division of Corrections to Bureau of Prisons and Jails; directing appointment of
superintendents for facilities within Bureau of Prisons and Jails; requiring superintendents
post bond; setting authority of superintendents; authorizing establishment of imprest fund;
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authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; requiring commissioner to make space in every adult institution for both jail and prison populations; setting limitations on requirement to house both jail and prison populations in each adult institution; requiring division conduct pretrial risk assessment of person within three calendar days of arrest and placement in jail; directing pretrial risk assessment be provided to magistrate and circuit clerks; making pretrial risk assessment inadmissible evidence; requiring person committed to be housed in jail pay processing fee; directing where processing fee to be credited; directing refund of fee if person is not convicted; authorizing commissioner or employee to refuse certain offenders if offender appears to need medical attention; directing commissioner establish Bureau of Juvenile Services; transferring duties and funds of Division of Juvenile Services to Bureau of Juvenile Services; directing appointment of assistant commissioner to oversee Bureau of Juvenile Services; directing appointment of superintendents for facilities within Bureau of Juvenile Services; requiring superintendents post bond; setting authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; directing commissioner establish Bureau of Community Corrections; directing appointment of assistant commissioner to oversee Bureau of Community Corrections; directing appointment of superintendents for facilities within Bureau of Community Corrections; requiring superintendents post bond; authorizing hiring of other assistants and employees by superintendents; providing for supervision of persons on probation or released on parole; directing rules regarding supervision of probationers and parolees; clarifying authority retained by Parole Board; setting powers
and duties of state parole officers; authorizing issuance of certificates for state parole
officers under certain conditions; continuing Parole Supervision Benefit Fund; authorizing
use of money for payment to community corrections program; continuing Regional Jail
and Correctional Facility Authority Board; continuing certain powers; transferring certain
power and authority to Division of Corrections and Rehabilitation; abolishing certain
powers; modifying composition of Regional Jail and Correctional Facility Authority Board;
providing for appointment and qualifications of board members; providing for governance
by and operation of board; directing authority review per diem cost set by state Budget
Office; providing procedures if amount is challenged or believed incorrect; providing
certain employees of State Board of Education not subject to supervision and approval of
employees of division; making certain employees members of classified service;
exempting Division of Corrections and Rehabilitation from requirement to buy certain
products from Department of Agriculture; repealing provisions of code related to Division
of Corrections; repealing provisions of code related to state correctional and penal
institutions; repealing provisions of code related to West Virginia Regional Jail and
Correctional Facility Authority; repealing provisions of code related to probation and
parole; repealing provisions of code related to corrections management; updating code
references; eliminating obsolete language; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers
and salaries of officers.

(a) Each of the following appointive state officers named in this subsection shall be
appointed by the Governor, by and with the advice and consent of the Senate. Each of the
appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer is as follows:

- Commissioner, Division of Highways, $92,500;
- Commissioner, Division of Corrections and Rehabilitation, $90,000;
- Director, Division of Natural Resources, $75,000;
- Superintendent, State Police, $85,000;
- Commissioner, Division of Financial Institutions, $75,000;
- Commissioner, Division of Culture and History, $65,000;
- Commissioner, Alcohol Beverage Control Commission, $75,000;
- Commissioner, Division of Motor Vehicles, $75,000;
- Director, Human Rights Commission, $55,000;
- Commissioner, Division of Labor, $70,000;
- Chairperson, Board of Parole, $55,000;
- members, Board of Parole, $50,000;
- members, Employment Security Review Board, $17,000;
- and Commissioner, Workforce West Virginia, $75,000.

Secretaries of the departments shall be paid an annual salary as follows:
- Health and Human Resources, $95,000: Provided, That effective July 1, 2013, the Secretary of the Department of Health and Human Resources shall be paid an annual salary not to exceed $175,000;
- Transportation, $95,000: Provided, however, That if the same person is serving as both the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid $120,000;
- Revenue, $95,000;
- Military Affairs and Public Safety, $95,000;
- Administration, $95,000;
- Education and the Arts, $95,000;
- Commerce, $95,000;
- Veterans’ Assistance, $95,000;
- and Environmental Protection, $95,000: Provided further, That any officer specified in this subsection whose salary is increased by more than $5,000 as a result of the amendment and reenactment of this section during the 2011 regular session of the Legislature shall be paid the salary increase in increments of $5,000 per fiscal year beginning July 1, 2011, up to the maximum salary provided in this subsection.
(b) Each of the state officers named in this subsection shall continue to be appointed in the manner prescribed in this code and shall be paid an annual salary as follows:

Director, Board of Risk and Insurance Management, $80,000; Director, Division of Rehabilitation Services, $70,000; Director, Division of Personnel, $70,000; Executive Director, Educational Broadcasting Authority, $75,000; Secretary, Library Commission, $72,000; Director, Geological and Economic Survey, $75,000; Executive Director, Prosecuting Attorneys Institute, $80,000; Executive Director, Public Defender Services, $70,000; Commissioner, Bureau of Senior Services, $75,000; Executive Director, Women's Commission, $45,000; Director, Hospital Finance Authority, $35,000; member, Racing Commission, $12,000; Chairman, Public Service Commission, $85,000; members, Public Service Commission, $85,000; Director, Division of Forestry, $75,000; and Executive Director of the Health Care Authority, $80,000.

(c) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer shall be as follows:

Commissioner, State Tax Division, $92,500; Insurance Commissioner, $92,500; Director, Lottery Commission, $92,500; Director, Division of Homeland Security and Emergency Management, $65,000; and Adjutant General, $125,000.

(d) No increase in the salary of any appointive state officer pursuant to this section may be paid until and unless the appointive state officer has first filed with the State Auditor and the Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General,
certifying that his or her spending unit is in compliance with any general law providing for a salary increase for his or her employees. The Attorney General shall prepare and distribute the form to the affected spending units.

CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY.

ARTICLE 1. DEFINITIONS.

Whenever in this chapter, or in any rule or regulation authorized by it, any of the words, terms, or phrases defined in this article are used, they shall be taken and construed to have the meaning, application, and effect ascribed to them in this article, unless otherwise specified or clearly intended.

“Department” means the Department of Military Affairs and Public Safety.

§15A-1-3. “Secretary.”
“Secretary” means the Secretary of the Department of Military Affairs and Public Safety.

§15A-1-4. “Commissioner” defined.
“Commissioner” means the Commissioner of the Division of Corrections and Rehabilitation within the Department of Military Affairs and Public Safety.

§15A-1-5. “Inmate” defined.
“Inmate” means an adult incarcerated person.

“Resident” means a juvenile within the custody of the Division of Corrections and Rehabilitation.

ARTICLE 2. DIVISION OF ADMINISTRATIVE SERVICES.

§15A-2-1. Division of Administrative Services.
(a) The Division of Administrative Services is created within the department to perform the administrative services for identified agencies within the department.

(b) The Division of Administrative Services shall provide fiscal services, payroll services, human resources services, and procurement services for the Division of Corrections and Rehabilitation, created in §15A-3-1 et seq. of this code, and any other agencies or boards required by the secretary: Provided, That the secretary may not require the administrative services of the State Police, the West Virginia National Guard, or the West Virginia Military Authority be provided by the Division of Administrative Services.

(c) The State Police, the West Virginia National Guard, and the West Virginia Military Authority may elect to utilize the services of the Division of Administrative Services. The director of the Division of Administrative Services is authorized to enter into a memorandum of understanding with the head of the State Police, the West Virginia National Guard, or the West Virginia Military Authority to effectuate this utilization.

§15A-2-2. Division director; appointment and qualifications; powers and duties.

(a) The secretary shall appoint a director for the Division of Administrative Services who shall serve at the will and pleasure of the secretary. The director shall have extensive knowledge in the field of public safety and the principles and practices of administration and experience in the civil service system.

(b) The director shall have control and supervision of the Division of Administrative Services and shall be responsible for the work of each of its employees.

(c) The director shall have the authority to employ all personnel necessary to perform the functions of the Division of Administrative Services. The director shall also have the authority to employ assistants and attorneys as may be necessary for the efficient operation of the Division of Administrative Services.

(d) The director shall perform the duties herein specified and shall also perform other duties as the secretary may prescribe.
(e) Where reference in this article is made to the “director”, it shall mean the Director of the Division of Administrative Services.

§15A-2-3. Transfer of employees; continuation of programs; transfer of equipment and records; protection.

(a) Effective July 1, 2018, all persons employed on the effective date of this article by the Division of Juvenile Services, the Regional Jail and Correctional Facility Authority or the Division of Corrections whose current employment responsibilities include those to be provided by the Division of Administrative Services are hereby assigned and transferred to the Division of Administrative Services.

(1) The Division of Administrative Services shall assume all responsibilities of the administrative services sections of the Division of Juvenile Services, the Regional Jail and Correctional Facility Authority and the Division of Corrections, including those related to ongoing programs, benefits, litigation or grievances.

(2) All equipment and records necessary to effectuate the purposes of this article shall be transferred to the Division of Administrative Services.

(b) Any person transferred to the office of the director of the division of administrative services who on the effective date of this article is a classified civil service employee shall, within the limits contained in §29-6-1 et seq. of this code, remain in the civil service system as a covered employee. Any person transferred to the office of the director of the division of administrative services who on the effective date of this article is a classified exempt civil service employee, other than the Director, and his or her Deputy Directors, and one exempt assistant, shall, within the limits contained in §29-6-1 et seq. of this code, be transferred into the civil service system as a permanent covered employee, and is no longer exempt: Provided, That any transferred employee that has been employed in his or her position for less than the required probationary period must first complete the probationary period prior to becoming a permanent covered employee.
ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.

§15A-3-1. Purpose and legislative intent.

(a) The primary purpose of the Division of Corrections and Rehabilitation is to enhance public safety by providing for the detention of juvenile offenders, both pretrial and adjudicated, pretrial detention of adult persons facing criminal charges, and incarceration and care of adult convicted offenders who have been sentenced by courts of proper jurisdiction to serve terms of incarceration.

(b) It is the intent of the Legislature:

(1) That juveniles and adult offenders be afforded appropriate education and treatment to reestablish their ability to live peaceably, consistent with the protection of the community;

(2) That persons held in pretrial detention, and committed to jails and correctional institutions of the state for whom release is available for crimes, be afforded appropriate treatment to reestablish their ability to live peaceably, consistent with the protection of the community;

(3) That persons committed to jails and correctional institutions of the state be released at the earliest possible date, consistent with public safety;

(4) To establish a just, humane, and efficient corrections program; and

(5) To avoid duplication and waste of effort and money on the part of public and private agencies.

(c) This chapter shall be construed in favor of public safety.

§15A-3-2. Division of Corrections and Rehabilitation established.

(a) The Division of Corrections and Rehabilitation is hereby established within the Department of Military Affairs and Public Safety. The executive and administrative head of the Division of Correction and Rehabilitation shall be the Commissioner appointed pursuant to §15A-3-3 of this code.

(b) Effective July 1, 2018, the Division of Corrections and the Division of Juvenile Services are hereby abolished. Except as otherwise provided in this chapter, the powers and authority of those divisions are hereby transferred to the Division of Corrections and Rehabilitation.
(c) Effective July 1, 2018, the powers and authority of the Regional Jail and Correctional Facility Authority Board, in relation to all functions of correctional operations, are hereby transferred to the Division of Corrections and Rehabilitation. The Regional Jail and Correctional Facility Authority Board shall only retain the powers authorized in §15A-8-1 et seq. of this code.

(d) Whenever in this code a reference is made to the Division of Corrections, it shall be construed to mean the Division of Corrections and Rehabilitation. Wherever in this code a reference is made to the Division of Juvenile Services, it shall be construed to mean the Division of Corrections and Rehabilitation. Whenever in this code reference is made to the Regional Jail and Correctional Facility Authority Board in relation to operations of any of the regional jails, it shall be construed to mean the Division of Corrections and Rehabilitation.

(e) Any person employed by the Division of Corrections and Rehabilitation who on the effective date of this article is a classified service employee shall, within the limits contained in §29-6-1 et seq. of this code, remain in the classified service system as a covered employee.

(f) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

§15A-3-3. Commissioner of division; qualifications, oath and bond.

(a) A commissioner of the Division of Corrections and Rehabilitation shall be appointed by the Governor, by and with the advice and consent of the Senate, as provided in §6-7-2a of this code.

(b) Effective July 1, 2018, the offices of Commissioner of Division of Corrections, the Director of Juvenile Services, and the Executive Director of the Regional Jail and Correctional Facility Authority are hereby abolished. Except as otherwise provided in this chapter, the powers and authority of those officers are vested in the Commissioner of the Division of Corrections and Rehabilitation.

(c) The commissioner shall take and subscribe to the oath prescribed by the Constitution for public officials and shall execute an official bond in a penalty of $15,000, conditioned as
required by law. Premiums on the bond shall be paid from appropriations made for the
commissioner's office. The bond shall be approved as to form by the Attorney General and as to
sufficiency by the Governor and, when fully executed and approved, shall be filed in the office of
the Secretary of State.

(d) Whenever in this code, reference is made to the Commissioner of the Division of
Corrections or the Director of the Division of Juvenile Services, it shall be construed to mean the
Commissioner of the Division of Corrections and Rehabilitation. Whenever in this code reference
is made to the Executive Director of the Regional Jail and Correctional Facility Authority, in relation
to operations of any of the regional jails, it shall be construed to mean the Commissioner of the
Division of Corrections and Rehabilitation.

§15A-3-4. Powers and duties of commissioner generally.

(a) The commissioner, in order to carry out the purposes and intent of this chapter, shall:

(1) Exercise general supervision over the administration of the institutions under the
jurisdiction of the division;

(2) Establish separate subdivisions, including a Bureau of Prisons and Jails, a Bureau of
Juvenile Services, and a Bureau of Community Corrections, each to be headed by assistant
commissioners, and other subdivisions as he or she deems advisable, which may be headed by
one of the assistant commissioners, or by deputy directors. Nothing herein shall prohibit the
commissioner from appointing the same person to head more than one subdivision;

(3) Establish rules, policies, and regulations in writing governing all subdivisions and
institutions within the division;

(4) Establish an appropriate training program for personnel of the division;

(5) Classify the institutions of the division, varying according to the factors as security
features, program, age, and sex of inmates, physical stature or size, character of inmates;

(6) Establish a system of classification of inmates and residents, through a reception and
examination procedure;
(7) Cooperate with the Department of Education in providing for the education of inmates and residents in all institutions within the division, as provided in §18-2-13f of this code and any other provision of this code;

(8) Supervise the treatment, custody, and discipline of all inmates and residents and the maintenance of the institutions and their industries;

(9) Establish a system of compensation for inmates and residents of the institutions of the state who perform good and satisfactory work either within the industrial program or in the servicing and maintenance of the institutions or any other institutions or camps within the state. The commissioner, or his or her designee, may establish a graduated scale of compensation to be paid to inmates and residents in accordance with their skill in industry; and

(10) Subject to the provisions in §25-1A-5 of this code, provide for the transportation of inmates between the jails and local holding facilities for court appearances.

(b) The commissioner, in order to carry out the purposes and intent of this chapter, may:

(1) Appoint a deputy commissioner to assist in the day to day operations of the division;

(2) Employ professional and support staff, including, but not limited to, certified public accountants, attorneys, assistants, and other employees as necessary for the efficient operation of the division;

(3) Acquire, own, hold, and dispose of property, real and personal, tangible and intangible;

(4) Lease property, whether as a lessee or lessor;

(5) Conduct examinations and investigations and hear testimony and take proof, under oath or affirmation;

(6) Issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before the commissioner, or his or her designee, to conduct any hearing;

(7) Apply to the circuit court having venue of the offense to have punished for contempt any witness who refuses to obey a subpoena, refuses to be sworn or affirmed, or refuses to testify, or who commits any contempt after being summoned to appear;
(8) Sue and be sued, implead and be impleaded, and complain and defend in any court;
(9) Propose rules for legislative approval for the management and regulation of the affairs
of the division pursuant to the provisions of §29A-3-1 et seq. of this code;
(10) Make policies for the management and regulation of the affairs of the divisions;
(11) Make contracts of every kind and nature and to execute all instruments necessary or
convenient for carrying on its business, including contracts with any other governmental agency
of this state or of the federal government or with any person, individual, partnership, or corporation
to affect any or all of the purposes of this chapter;
(12) Accept gifts or grants of property, funds, security interests, money, materials, labor,
supplies, or services from the United States of America or from any governmental unit or any
person, firm, or corporation, acceptance or disposition of gifts or grants; and
(13) Designate a facility as a rehabilitation facility; a rehabilitation facility may utilize
recommendations on programming from West Virginia higher education institutions and share
statistical data with the same institutions for study on the effectiveness of services provided by
the institution.

§15A-3-5. Officers and employees of corrections institutions.

(a) The commissioner, or his or her designee, has the authority to manage and administer
the finances, business, operations, security, and personnel affairs of correctional units and
juvenile facilities under the jurisdiction of the division.
(b) The superintendent of each institution or correctional unit has the power to hire all
assistants and employees required for the management of the institution in his or her charge, but
the number of the assistants and employees, and their compensation, shall first be approved by
the commissioner.
(c) It is the duty of the commissioner to investigate any complaint made against the
superintendent of any institution, and against any other officer or employee thereof, if the same
has not been investigated.
(d) All prospective correctional employees shall pass a preemployment drug screening prior to being hired.

(e) All persons employed at a state-operated correctional institution or correctional unit are subject to the supervision and approval of the superintendent and the authority of the commissioner, or his or her designee, except those persons employed by the State Board of Education, pursuant to §18-2-13f of this code.

§15A-3-6. Hiring of correctional officer without regard to position on the register.

Notwithstanding any provision of law to the contrary or any rule promulgated under the provisions of this code, the Division of Corrections and Rehabilitation may hire any person listed on the Correctional Officer I Register for employment as a Correctional Officer I without regard to the person's position on the register: Provided, That no person on the Correctional Officer I Register may be offered employment or hired before an otherwise qualified person on a preference register who is willing to accept the position.

§15A-3-7. Compensation of employees; traveling and other expenses.

The commissioner shall, in accordance with the provisions of §29-6-1 et seq. of this code, approve the salaries of all employees of the division. Salaries shall be commensurate with their duties and responsibilities, but no meals or other emoluments of any kind shall be furnished, given, or paid to the employee as all or part of their salary. The employees may be provided meals, household facilities, and supplies as may be necessary for them to perform their duties, if the employees agree to pay the reasonable cost as established by the commissioner. In the event of an emergency, such as a riot or other disturbance, the commissioner may authorize meals to be provided to employees at no cost. Additionally, the commissioner may establish a procedure to reimburse employees reasonable costs in the event the employee's personal property is stolen or damaged by an inmate or resident. All persons employed under this article are entitled to be reimbursed for necessary traveling and other expenses.
§15A-3-8. Reports by commissioner and chief officers of institutions to Auditor.

The commissioner shall, from time to time, as may be necessary, make a report to the Auditor, which shall state the name of each person employed at any of the institutions named in §15A-3-12 of this code, his or her official designation and biweekly rate of compensation, and out of what funds or appropriation the same is payable. The superintendent of the institution, or other person who may have been appointed for the purpose by the commissioner, shall make and certify to the Auditor at the end of each month a list of persons to whom any payments may be due, stating for what purpose due, the amount due each person, and the fund or appropriation from which payable; one copy whereof shall be filed in the office of the institution where made, and one in the office of the commissioner. If the Auditor finds the list correct and in accordance with the reports made to him or her by the commissioner, he or she may pay to the persons entitled thereto the amounts so certified as due each.

§15A-3-9. Special compensation of officers and employees prohibited; penalty.

No officer or employee shall receive, directly or indirectly, any other compensation for his or her services than that provided by law, or by the commissioner before his or her appointment, nor shall he or she receive any compensation whatever, directly or indirectly, for any act or service which he or she may do or perform for or on behalf of any contractor, or agent, or employee of a contractor. For any violation of this section the officer, agent, or employee of the state engaged therein shall be dismissed from his or her office or service, and every contractor, or employee, or agent of a contractor, engaged therein shall be expelled from the grounds of an institution, and not again employed in any institution as a contractor, agent, or employee.

§15A-3-10. Law-enforcement powers of employees.

(a) Other than as outlined in this section, a correctional officer employed by the division is not a law-enforcement officer as that term is defined in §30-29-1 of this code.

(b) The commissioner is a law-enforcement official, and has the authority to use, and permit and allow or disallow his or her designated employees to use, publicly provided carriage
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to travel from their residences to their workplace and return: Provided, That the usage is subject
to the supervision of the Commissioner and is directly connected with and required by the nature
and in the performance of the official’s or designated employee’s duties and responsibilities.

(c) All employees of the division are responsible for enforcing rules and laws necessary
for the control and management of correctional units and the maintenance of public safety that is
within the scope of responsibilities of the division.

(d) Persons employed by the Division of Corrections and Rehabilitation as correctional
officers are hereby authorized and empowered to make arrests of persons already charged with
a violation of law who surrender themselves to the correctional officer, to arrest persons already
in the custody of the division for violations of law occurring in the officer’s presence, to detain
persons for violations of state law committed on the property of any facility under the jurisdiction
of the commissioner, and to conduct investigations, pursue, and apprehend escapees from the
custody of a facility of the division.

(e) The commissioner may designate correctional employees as correctional peace
officers who have the authority:

(1) To detain persons for violations of state law committed on the property of any state
 correctional institution;

(2) To conduct investigations regarding criminal activity occurring within a correctional
 facility;

(3) To execute criminal process or other process in furtherance of these duties; and

(4) To apply for, obtain, and execute search warrants necessary for the completion of his
 or her duties and responsibilities.

(f) The Corrections Special Operations Team is hereby established and shall consist of
the Corrections Emergency Response Team, the K9 unit, and the Crisis Negotiations team
created under the former Division of Corrections. The Corrections Special Operations Team
serves as the first responder necessary for the protection of life, liberty, and property. It shall have
limited law-enforcement authority regarding matters occurring at jails, correctional centers, and juvenile centers, and arrest powers to apprehend escapees, absconders, and in all matters arising on the grounds of a facility under the care and control of the commissioner: Provided, That at any time the Corrections Special Operations Team is apprehending an escapee or an absconder outside the confinement of the facility grounds, it does so with the assistance and cooperation of local law enforcement or the West Virginia State Police.

§15A-3-11. Unauthorized use of uniform, badge, identification card, or other insignia; impersonation of member; and penalty.

(a) The commissioner shall prescribe the design, or designs, of uniforms used by employees of the division, which shall be dissimilar to the design of the uniform worn by the members of the State Police or the established statewide uniform of a sheriff or deputy sheriffs. A municipality shall not adopt for its police officers or other employees a uniform which is similar in design to the uniform adopted by the commissioner.

(b) No person who is not an officer or employee of the Division of Corrections and Rehabilitation, and no officer or employee of the division who is not authorized to do so, may, with intent to deceive, wear, use, order to be used or worn, copy, or imitate in any respect or manner the uniform, badge, identification card, or other insignia prescribed for employees of the division.

(c) No person who is not an officer or employee of the Division of Corrections and Rehabilitation may falsely represent himself or herself to be an officer or employee of the Division of Corrections and Rehabilitation or to be under the order or direction of any officer or employee of the division.

(d) No person employed as an officer or employee of the Division of Corrections and Rehabilitation may use his or her position as such to threaten or coerce any other person in order to receive any favoritism, employment, or thing of favor by virtue of his or her employment with the division: Provided, That this subsection does not apply to violations of the Prison Rape Elimination Act.
(e) Any person who violates the provisions of §15A-3-11(b), §15A-3-11(c), or §15A-3-11(d) of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $200, or confined in the county or regional jail for not more than six months, or both fined and confined.

§15A-3-12. Institutions managed by commissioner.

(a) The commissioner shall manage, direct, control, and govern the prisons, jails, or correctional institutions of this state, and the juvenile facilities of this state, including, but not limited to:

Mount Olive Correctional Complex and Jail;
Huttonsville Correctional Center and Jail;
Anthony Correctional Center and Jail;
Denmar Correctional Center and Jail;
Pruntytown Correctional Center and Jail;
Northern Regional Jail and Correctional Center;
Saint Marys Correctional Center and Jail;
Lakin Correctional Center and Jail;
Ohio County Correctional Center and Jail;
Beckley Correctional Center and Jail;
Martinsburg Correctional Center and Jail;
Salem Correctional Center and Jail;
Parkersburg Correctional Center and Jail;
Charleston Correctional Center and Jail;
Central Regional Jail and Corrections Facility;
Eastern Regional Jail and Corrections Facility;
North Central Regional Jail and Corrections Facility;
Potomac Highlands Regional Jail and Corrections Facility;
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22 South Central Regional Jail and Corrections Facility;
23 Southern Regional Jail and Corrections Facility;
24 Southwestern Regional Jail and Corrections Facility;
25 Tygart Valley Regional Jail and Corrections Facility;
26 Western Regional Jail and Corrections Facility;
27 Donald R. Kuhn Juvenile Center;
28 Gene Spadaro Juvenile Center;
29 J.M. Chick Buckbee Juvenile Center;
30 Kenneth "Honey" Rubenstein Juvenile Center;
31 Lorrie Yeager Juvenile Center;
32 Robert L. Shell Juvenile Center;
33 Sam Perdue Juvenile Center;
34 Tiger Morton Juvenile Center;
35 Vicki Douglas Juvenile Center; and
36 Any other juvenile or adult facility later transferred to the commissioner.

(b) The commissioner may contract with the county commission of McDowell County to
house and incarcerate inmates at the Stevens Correctional Center consistent with all
requirements and standards governing the division.

(c) The commissioner may contract with Youth Services System to house and detain
juveniles at the Ronald Mulholland Juvenile Center consistent with all the requirements and
standards governing the division.

(d) The commissioner may establish work and study release units as extensions and
subsidiaries of those state institutions under his or her control and authority. The work and study
release units may be coeducational and shall be managed, directed, and controlled as provided
in this article.
(e) The commissioner may contract with nonprofit or charitable entities including, but not limited to, nonprofit community mental health clinics, operating half-way houses, or transitional housing facilities for the placement of persons in the commissioner's custody, whether confined or under parole supervision, as long as the facilities meet standards and criteria established by the commissioner.

(1) The commissioner may direct that a person who is placed in a half-way house or transitional housing facility under this section make reimbursement to the state in the amount of a reasonable sum calculated to offset all or part of the costs of the placement. Prior to ordering the person to make the reimbursement, the commissioner, or his or her designee, shall consider the following:

(A) The person's ability to pay;
(B) The nature and extent of the person's responsibilities to his or her dependents, if any;
(C) The length of probable incarceration under the court's sentence; and
(D) The effect, if any, that reimbursement might have on the person's rehabilitation.

(2) The division shall provide the number of persons placed in a half-way house or a transitional housing facility as authorized in this section in its report made pursuant to §5-1-20 of this code, and shall describe its plans to use the authority provided under the provisions of §15A-3-12(g) of this code in furtherance of the duties and responsibilities imposed by this article.

(f) All adult persons sentenced by a court to serve a sentence of incarceration in a prison, jail, or correctional institution under the jurisdiction of the commissioner shall be deemed to be sentenced to the custody of the commissioner. The commissioner, or his or her designee, has the authority to and may order the transfer of any adult to any appropriate institution within the division.

(g) The commissioner has full discretionary authority to contract with any county jail, or other appropriate facility or institution for the incarceration and care of adult inmates. If a felony sentenced inmate is held in a jail facility or unit, under the jurisdiction of the commissioner, the
commissioner shall pay a per diem rate, not subject to the limitations set forth in §15A-3-16(g) of this code.

(h) The commissioner, or his or her designee, may transfer any adult prisoner or inmate who is mentally disturbed and who would more appropriately be treated in an institution under the jurisdiction of the Bureau of Health, to the Bureau, subject to the approval of the Director of Health, and may transfer any adult prisoner or inmate to an appropriate mental facility for specialized medical treatment.

(i) The commissioner shall, no later than July 1, 2019, complete an evaluation of all facilities within his or her control for the most appropriate space to house each type of inmate, and shall consult with the Juvenile Justice Commission on any and all intended uses of current or prospective juvenile facilities. This evaluation shall include an assessment of the physical plant of each institution, the inmate population size and type, and classification of inmates. Following completion of the evaluation, the commissioner shall develop a plan on how to best utilize the institutional space, and shall report to the Joint Committee on Government and Finance with recommendations regarding implementation of that plan. The commissioner may, from time to time, and as circumstances dictate, reorganize the facilities, and units within the facilities, to house pretrial inmates, convicted misdemeanants, and convicted felons in the most appropriate manner. No facility shall be converted from a juvenile to an adult facility, or from an adult to a juvenile facility, without legislative authorization.

§15A-3-13. Title to property of state institutions; custody of deeds and other muniments of title; authority of Commissioner.

The title to all property constituting or belonging to the several institutions named in §15A-3-12 of this code is vested in the state. The commissioner is custodian of all deeds and other muniments of title and shall cause such as are susceptible of recordation to be recorded in the proper offices. The commissioner is authorized, as lessor, to lease the West Virginia penitentiary in Moundsville, title to which is vested in the state by prior act of the Legislature, for a term of not
more than five years: *Provided*, That this section does not affect any lease in effect as of the
effective date of this section. Any agreement entered into under this section shall be with the
consent and approval of the Secretary of the Department of Military Affairs and Public Safety, and
shall include a provision within each agreement allowing for the immediate termination by the
secretary or commissioner at any time.

§15A-3-14. Exempt from Purchasing Division; purchasing procedures.

(a) The provisions established in §5A-3-1 et seq. of this code do not apply to the division
or any institution under the control of the division.

(b) When the cost under any contract or agreement entered into by the division, other than
compensation for personal services, involves an expenditure of more than $2,500 and less than
$25,000, the division shall solicit at least 3 bids, if possible, from vendors and make a written
contract with the lowest responsible bidder. When the cost under any contract or agreement
entered into by the division, other than compensation for personal services, involves an
expenditure of $25,000 or more, the division shall make a written contract with the lowest
responsible bidder after public notice published as a Class II legal advertisement in compliance
with the provisions of §59-3-1 et seq. of this code, the publication area for the publication to be
the county or counties wherein the work is to be performed or which is affected by the contract,
which notice shall state the general character of the work and general character of the materials
to be furnished, the place where plans and specifications therefor may be examined and the time
and place of receiving bids. But a contract for lease of a correctional facility is not subject to the
foregoing requirements and the division may enter into the contract for lease pursuant to
negotiation upon the terms and conditions and for the period as it finds to be reasonable and
proper under the circumstances and in the best interests of proper operation or efficient
acquisition or construction of the projects. The division may reject any and all bids. A bond with
good and sufficient surety, approved by the division, shall be required of all contractors in an
amount equal to at least 50 percent of the contract price, conditioned upon faithful performance of the contract.

(c) If the division has to make a purchase under emergency conditions, or an emergency situation, which jeopardizes the safe, secure, and orderly operations of the division, as deemed by the Commissioner, and approved by the Secretary, §15A-3-14(a) and §15A-3-14(b) of this code shall not apply.

(d) The commissioner may enter into agreements with medical schools and institutions of higher education in this state to develop standards for appropriate and innovative medical programming and care for inmates: Provided, That the division will follow the procedures set forth in §15A-3-14(b) of this code for delivery of regular and normal medical care within the facilities.


(a) The commissioner may enter into agreements to provide for the rendering of mutual aid with the political subdivisions of this state, other states, and the federal government to provide for the common defense, protect the public peace, health, and safety and to preserve the lives and property of the people of this state.

(b) Any agreement entered into under this section shall be with the consent and approval of the Secretary of the Department of Military Affairs and Public Safety, and shall include a provision within each agreement allowing for the immediate termination by the secretary or commissioner at any time.

§15A-3-16. Funds for operations of jails under the jurisdiction of the commissioner.

(a) Any special revenue funds previously administered by the Regional Jail and Correctional Facility Authority or its Executive Director are continued, and shall be administered by the commissioner.

(b) Funds that have been transferred by §15A-3-16(a) of this code shall be limited in use to operations of jail functions, and for payment to the Regional Jail and Correctional Facility Authority Board, for payment of indebtedness. In no case shall a fund be utilized to offset or pay
operations of nonjail parts of the facility: *Provided*, That funds may be utilized on a pro rata basis for shared staff and for operational expenses of facilities being used as both prisons and jails.

(c) Whenever the commissioner determines that the balance in these funds is more than the immediate requirements of this article, he or she may request that the excess be invested until needed. Any excess funds so requested shall be invested in a manner consistent with the investment of temporary state funds. Interest earned on any moneys invested pursuant to this section shall be credited to these funds.

(d) These funds consist of the following:

(1) Moneys collected and deposited in the State Treasury which are specifically designated by Acts of the Legislature for inclusion in these funds;

(2) Contributions, grants, and gifts from any source, both public and private, specifically directed to the operations of jails under the control of the commissioner;

(3) All sums paid pursuant to §15A-3-16(g) of this code; and

(4) All interest earned on investments made by the state from moneys deposited in these funds.

(e) The amounts deposited in these funds shall be accounted for and expended in the following manner:

(1) Amounts deposited shall be pledged first to the debt service on any bonded indebtedness;

(2) After any requirements of debt service have been satisfied, the Commissioner shall requisition from these funds the amounts that are necessary to provide for payment of the administrative expenses of this article, as limited by this section;

(3) The commissioner shall requisition from these funds, after any requirements of debt service have been satisfied, the amounts that are necessary for the maintenance and operation of jails under his or her control. These funds shall make an accounting of all amounts received
from each county by virtue of any filing fees, court costs or fines required by law to be deposited
in these funds and amounts from the jail improvement funds of the various counties;

(4) Notwithstanding any other provisions of this article, sums paid into these funds by each
county pursuant to §15A-3-16(g) of this code for each inmate shall be placed in a separate
account and shall be requisitioned from these funds to pay for costs incurred; and

(5) Any amounts deposited in these funds from other sources permitted by this article shall
be expended based on particular needs to be determined by the commissioner.

(f)(1) After a jail facility becomes available pursuant to this article for the incarceration of
inmates, each county within the region shall incarcerate all persons whom the county would have
incarcerated in any jail prior to the availability of the jail facility in the jail facility, except those
whose incarceration in a local jail facility used as a local holding facility is specified as appropriate
under the previously promulgated, and hereby transferred standards and procedures developed
by the Jail Facilities Standards Commission, and whom the sheriff or the circuit court elects to
incarcerate therein.

(2) Notwithstanding the provisions of §15A-3-16(f)(1) of this code, circuit and magistrate
courts are authorized to:

(A) Detain persons who have been arrested or charged with a crime in a county or
municipal jail specified as appropriate under the standards and procedures referenced in §15A-
3-16(f)(1), for a period not to exceed 96 hours; or

(B) Commit persons convicted of a crime in a county or municipal jail, specified as
appropriate under the standards and procedures referenced in §15A-3-16(f)(1) of this code, for a
period not to exceed 14 days.

(g) When inmates are placed in a jail facility under the jurisdiction of the commissioner
pursuant to §15A-3-16(f) of this code, the county, and municipality if the incarceration is a
municipal violation, shall pay into this fund a cost per day for each incarcerated inmate to be
determined by the state Budget Office, by examining the most recent three years of costs
submitted by the commissioner for the cost of operating the jail facilities and units under his or her jurisdiction, and taking an average per day, per inmate cost of maintaining the operations of the jail facilities or units: *Provided,* That beginning July 1, 2018, and continuing through July 1, 2021, in no case shall any county or municipality be required to pay a rate that exceeds $48.25 per day, per inmate. Nothing in this section shall be construed to mean that the per diem cannot be decreased or be less than $48.25 per day per inmate.

(h) The per diem costs for incarcerating inmates may not include the cost of construction, acquisition, or renovation of the regional jail facilities: *Provided,* That each jail facility or unit operating in this state shall keep a record of the date and time that an inmate is incarcerated, and a county may not be charged for a second day of incarceration for an individual inmate until that inmate has remained incarcerated for more than 24 hours. After that, in cases of continuous incarceration, subsequent per diem charges shall be made upon a county only as subsequent intervals of 24 hours pass from the original time of incarceration.

(i) The county is responsible for costs incurred by the division for housing and maintaining inmates in its facilities who are pretrial inmates and convicted misdemeanants. The costs of housing shall be borne by the division on a felony conviction on which an inmate is incarcerated beginning the calendar day following the day of sentencing: *Provided,* That beginning July 1, 2019, the costs of housing shall be borne by the division on a felony conviction when an inmate is incarcerated beginning the calendar day following the day of conviction. In no case shall the county be responsible for any costs of housing and maintaining felony convicted inmate populations.

(j) The county is responsible for the costs incurred by the authority for housing and maintaining an inmate who, prior to a felony conviction on which the inmate is incarcerated and is awaiting transportation to a state correctional facility for a 60 day evaluation period as provided in §62-12-7a of this code.
(k) On or before July 1, 2020, the commissioner shall prepare a report on the feasibility of phasing out the county and municipal per diem charges required by §15A-3-16(g) of this code. This report shall include information regarding savings realized because of the consolidation of the former Division of Corrections, Division of Juvenile Services, and the operations of the Regional Jail and Correctional Facility Authority, as well as any other recommendations that might ease the burden of paying the per diem inmate costs by the counties or municipalities. On or before January 1, 2019, January 1, 2020 and January 1, 2021, the commissioner shall report to the Joint Committee on Government and Finance and the co-chairmen of the Joint Standing Committee on Finance the actual per diem rate as calculated pursuant to §15A-3-16(g) of this code and any amount not assessed to counties if the actual per diem cost is larger than the amount charged to the counties or municipalities pursuant to §15A-3-16(g) between July 1, 2018 and July 1, 2021.


(a) There is continued in the State Treasury the Jail Operations Partial Reimbursement Fund.

(b) Revenues deposited into this fund shall be composed of fees collected by magistrate courts pursuant to §50-3-2(a) of this code, and by circuit courts pursuant to §59-1-11 of this code.

(c) Revenues deposited into this fund shall be used to reimburse those counties and municipalities participating in the jail system for the cost of incarceration.

(d) The State Treasurer shall, in cooperation with the division, administer the fund. The State Treasurer shall determine the amount of funds available for reimbursement and, upon receiving a report from the commissioner containing the total number of inmate days in the fiscal year immediately concluded, the State Treasurer shall calculate the reimbursement to each participant based upon a pro rata share formula: Provided, That only counties and municipalities that, on July 1 of each year, are not more than 90 days delinquent in payments for moneys to
incarcerate its offenders are eligible to receive this reimbursement: Provided, however, That the pro rata share formula shall not include the counties or municipalities which are not entitled to reimbursement pursuant to this section.

(e) A participant’s share shall be comparable with its total of inmate days, which shall consist of the number of inmates it contributed to the regional jail system and the number of days those inmates remained incarcerated.

(f) A participant’s share shall be disbursed annually, within 90 days of July 1 each year, as provided in §15A-3-17(d) of this section.


(a) The commissioner is authorized to propose rules for legislative authorization pursuant to §29A-3-1 et seq. of this code or develop policies for the proper execution of his or her duties and powers; adopt rules or policies for the government of the institutions named or referred to in §15A-3-12 of this code; adopt rules or policies for the administration of the financial and business affairs of the institutions named or referred to in §15A-3-12 of this code, and establish policies regarding the treatment of mentally ill inmates, which reflect the safety and security concerns specific to jails and correctional facilities.

(b) All legislative rules and policies of the former Division of Corrections, the former Division of Juvenile Services, and the Regional Jail and Correctional Facility Authority shall remain effective until amended or terminated pursuant to the provisions of §29A-3-1 et seq. of this code by the Division of Correction and Rehabilitation: Provided, That these rules shall expire on July 1, 2021, if not superseded sooner.

(c) Notwithstanding any provisions of law to the contrary, the division is not subject to the rules promulgated by, nor any mandates upon, the board of health for the treatment of mentally ill patients.
ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-1. Applicability of article.

(a) Except as otherwise provided herein, the provisions of this article relate to adult inmates housed in jails, prisons, and correctional facilities, and do not apply to juvenile residents housed in juvenile centers.

(b) Where reference in this article is made to the "division", it shall mean the Division of Corrections and Rehabilitation.

§15A-4-2. Furlough programs.

(a) The commissioner may establish a furlough program for inmates committed to his or her custody for a felony offense. The program may provide that selected inmates be permitted to reside outside an institution operated by the division pursuant to legislative rules promulgated pursuant to §29A-3-1 et seq. of this code.

(b) The commissioner, or his or her designee, is authorized to propose rules for legislative authorization, pursuant to §29A-3-1 et seq. of this code, or policy directives, promulgated by the commissioner, a furlough program for pretrial and misdemeanant inmates under his or her control and custody in accordance with the following provisions:

(1) The program may include, but is not limited to, granting furloughs or special escorts for specified inmates under the commissioner's control and custody to attend funerals or make hospital visits to terminally ill family members.

(2) The commissioner shall establish criteria to be used in determining which inmates are not likely to jeopardize public safety and should be granted a furlough or a special escort through this program.

(3) The commissioner is authorized to establish any other guidelines he or she considers necessary to administer the program and to ensure public safety, including, but not limited to:

(A) Eligibility for consideration, restrictions, conditions, and procedures; and
(B) The family relationship an inmate must have with the deceased or terminally ill individual in order to qualify for consideration for a furlough.

(c)(1) The division, the commissioner, members of the Regional Jail and Correctional Facility Authority Board, and employees of the division are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act of an inmate while on a furlough granted under this section.

(2) The immunity from suit and liability provided in this subsection does not extend to liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any person identified in §15A-4-2(c)(1) of this code.

§15A-4-3. Electronic monitoring of offenders; special account.

(a) The commissioner may use electronic monitoring equipment to aid in the supervision of offenders.

(b) The commissioner shall charge offenders subject to supervision by means of electronic monitoring equipment a reasonable fee, to be established under a legislative rule proposed by the commissioner for legislative authorization pursuant to §29A-3-1 et seq. of this code, to help defray the costs of the purchase and use of the equipment and the division's operational costs: Provided, That an offender's inability to pay a fee does not preclude the offender from being eligible for this program.

(c) All fees collected shall be deposited in a special account in the State Treasury designated the "electronic monitoring program account." The funds deposited in the account may be used by the commissioner only for the operation of the program and for the administration of the division.

(d) For purposes of this section, "electronic monitoring equipment" means an electronic device or apparatus approved by the division that is capable of recording or transmitting information regarding the offender's presence or nonpresence in a designated area.
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shall be minimally intrusive. Except to the extent provided in this section, the division shall not approve any monitoring device which is capable of recording or transmitting: (1) Visual images, except for that of a still image of the offender that can only be transmitted by the offender triggering the monitoring system; or (2) information as to the offender's activities while he or she is within the designated area. A monitoring device may transmit information regarding blood alcohol levels. The monitoring device shall not be used to eavesdrop or record any conversation: Provided, That conversations between the offender and the person supervising the offender may be recorded solely for purpose of voice identification.

§15A-4-4. Diagnostic and classification divisions.
1 (a) The commissioner may continue and establish diagnostic and classification subdivisions.
2 (b) Notwithstanding any provision of this code to the contrary, all persons committed to the custody of the division for presentence diagnosis and classification, and all persons sentenced to the custody of the division shall, upon transfer to the division, undergo diagnosis and classification, which shall include:
3 (1) Assessments of a person’s criminogenic risk and need factors that are reliable, validated, and normed for a specific population and responsive to cultural and gender-specific needs as well as individual learning styles and temperament;
4 (2) Application of a mental health preliminary screen; and
5 (3) If the mental health preliminary screen suggests the need for further assessment, a full psychological evaluation.
6 (c) The division shall perform mental health preliminary screens, appraisals, and evaluations according to standards provided by the American Correctional Association.

§15A-4-5. Transfer of inmates of state institutions or facilities.
1 (a) The commissioner shall have authority to cause the transfer of any inmate from any facility under his or her control to any other state or federal institution or facility which is better equipped for the care or treatment of the inmate, or for other good cause or reason.
(b) Whenever an inmate committed to the custody of the division becomes mentally ill and his or her needs cannot be properly met within the correctional facility, the commissioner shall proceed in accordance with §15A-4-19 of this code.

(c) Whenever an inmate committed to the custody of the division needs medical attention, other than mental health care, not available at the prison, the superintendent of the facility shall immediately notify the commissioner who, after proper investigation, shall cause the transfer of the inmate to a facility properly equipped to render the medical attention necessary. The inmate, while receiving treatment in the hospital, shall be under an appropriate level of supervision at all times and shall forthwith be returned to his or her correctional facility upon release from the facility.

(d) In providing or arranging for the necessary medical and other care and treatment of a pregnant inmate, the superintendent of the facility shall take reasonable measures to assure that pregnant inmates will not be restrained after reaching the second trimester of pregnancy until the end of the pregnancy: Provided, That if the inmate, based upon her classification, discipline history, or other factors deemed relevant by the superintendent poses a threat of escape, or to the safety of herself, the public, staff, or the fetus, the inmate may be restrained in a manner reasonably necessary: Provided, however, That prior to directing the application of restraints and where there is no threat to the safety of the inmate, the public, staff, or the fetus, the superintendent, or designee shall consult with an appropriate health care professional to assure that the manner of restraint will not pose an unreasonable risk of harm to the inmate or the fetus.

§15A-4-6. Monitoring of inmate telephone calls; procedures and restrictions; calls to or from attorneys excepted.

(a) The commissioner, or his or her designee, is authorized to monitor, intercept, record, and disclose telephone calls to or from adult inmates of state institutions under his or her control, in accordance with the following provisions:

(1) All adult inmates of state institutions shall be notified in writing that their telephone conversations may be monitored, intercepted, recorded, and disclosed;
(2) Only the commissioner, superintendent, or their designee shall have access to recordings of inmates’ telephone calls unless disclosed pursuant to §15A-4-6(a)(4) of this code;

(3) Notice shall be prominently placed on, or immediately near, every telephone that may be monitored;

(4) The contents of inmates’ telephone calls may be disclosed to an appropriate law-enforcement agency, or the West Virginia Intelligence Fusion Center, when disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution. Disclosure may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal when the disclosure is:

(A) Necessary to safeguard and protect the orderly operation of the correctional institution;

or

(B) Necessary to protect persons from physical harm or the threat of physical harm;

(5) All recordings of telephone calls shall be retained for at least three years and maintained and destroyed in accordance with the record retention policy of the division adopted as required by §5A-8-1 et seq. of this code; or

(6) To safeguard the sanctity of the attorney-client privilege, a telephone line that is not monitored shall be made available for telephone calls to or from an attorney. These calls may not be monitored, intercepted, recorded, or disclosed in any matter.

(b) The commissioner shall promulgate a policy directive establishing a record-keeping procedure which requires retention of: (1) A copy of the contents of any inmate telephone conversation provided to law enforcement; and (2) the name of the law-enforcement officer and the law-enforcement agency to which the contents of the telephone conversation were provided. The records required to be retained pursuant to this subsection shall be retained in accordance with the record retention policy specified in §29B-1-4(a)(4) of this code. The inmate’s telephone conversation and the information regarding law enforcement are law-enforcement records under that subdivision.
(c) Should an inmate be charged with a crime based, in whole or in part, on the inmate's telephone conversation supplied to law enforcement, the inmate's attorney in the criminal matter shall be entitled to access to and copies of the inmate's telephone conversations in the custody of the commissioner which are not evidence in or the subject of another criminal investigation.

(d) The provisions of this section apply only to those persons in the physical custody of the commissioner.

§15A-4-7. Monitoring inmate mail; procedures and restrictions; identifying mail from a state institution; mail to or from attorneys excepted.

(a) The commissioner, or his or her designee, is authorized to monitor, open, review, copy, and disclose mail sent to adult inmates of state institutions under his or her control, in accordance with the following provisions:

(1) All adult inmates of state institutions shall be notified in writing that their mail may be monitored, opened, reviewed, copied, and disclosed;

(2) Only the commissioner and his or her designee shall have access to copies of inmates' mail unless disclosed pursuant to §15A-4-7(a)(4) of this code;

(3) Notice that the mail may be monitored shall be prominently placed on or immediately near every mail receptacle or other designated area for the collection or delivery of mail;

(4) The contents of inmate's mail may be disclosed to an appropriate law-enforcement agency, or the West Virginia Intelligence Fusion Center, when disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the institution. Disclosure may also be made in civil or administrative proceedings pursuant to an order of a court or administrative tribunal when the disclosure is:

(A) Necessary to safeguard and protect the orderly operation of the institution; or

(B) Necessary to protect persons from physical harm or the threat of physical harm;

(5) All copies of mail shall be retained for at least three years and maintained and destroyed in accordance with the records retention policy of the division adopted as required by §5A-8-1 et seq. of this code; or
(6) The inmate whose mail has been copied and disclosed under this section shall be given a copy of that mail when it is determined by the commissioner, or superintendent, not to jeopardize the safe and secure operation of the facility or to be detrimental to an ongoing investigation or administrative action.

(b) To safeguard the sanctity of the attorney-client privilege, mail to or from an inmate's attorney shall not be monitored, reviewed, copied, and kept by the institution, or disclosed in any manner unless required by an order of a court of competent jurisdiction. However, that mail may be checked for weapons, drugs, and other contraband provided it is done in the presence of the inmate and there is a reasonable basis to believe that any weapon, drug, or other contraband exists in the mail.

(c) All inmate's outgoing mail must be clearly identified as being sent from an inmate at a state correctional institution and must include on the face of the envelope the name and full address of the institution.

(d) The commissioner or his or her designee is authorized to open, monitor, review, copy, and disclose an inmate's outgoing mail in accordance with the provisions of §5A-4-7(a) of this code.

(e) The commissioner shall promulgate a policy directive establishing a record-keeping procedure which requires retention of: (1) All inmate mail provided to law enforcement; and (2) the name of the law-enforcement officer and the law-enforcement agency to which the inmate mail was provided. The records required to be retained pursuant to this subsection shall be retained in accordance with the record retention policy specified in §15A-4-7(a)(5) of this code. The inmate mail and the information regarding law enforcement are law-enforcement records under §29B-1-4(a)(4) of this code.

(f) Should an inmate be charged with a criminal offense based, in whole or in part, on the inmate's mail supplied to law enforcement, the inmate's attorney in the criminal matter shall be
entitled access to and copies of the inmate's mail in the custody of the commissioner which are not evidence in or the subject of another criminal investigation.

(g) The provisions of this section apply only to those persons in the physical custody of the commissioner.

§15A-4-8. Monitoring of inmate electronic correspondence; procedures and restrictions; to or from attorneys excepted.

(a) The commissioner, or his or her designee, is authorized to monitor, intercept, record, and disclose electronic communications to or from adult inmates of state institutions under his or her control, in accordance with the following provisions:

(1) All adult inmates of state institutions shall be notified in writing that their electronic communications may be monitored, intercepted, recorded, and disclosed;

(2) Only the commissioner, superintendent, or their designees, shall have access to copies or recordings of inmates' electronic communications unless disclosed pursuant to §15A-4-8(a)(4) of this code;

(3) Notice shall be prominently placed on, or immediately near, every electronic communications device that may be monitored;

(4) The contents of inmates' electronic communications may be disclosed to an appropriate law-enforcement agency, or the West Virginia Intelligence Fusion Center, when disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution. Disclosure may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal when the disclosure is:

(A) Necessary to safeguard and protect the orderly operation of the correctional institution;

or

(B) Necessary to protect persons from physical harm or the threat of physical harm;
(5) All recordings or copies of electronic communications shall be retained for at least three years and maintained and destroyed in accordance with the record retention policy of the division adopted as required by §5A-8-1 et seq. of this code; or

(6) To safeguard the sanctity of the attorney-client privilege, a method of electronic communications that is not monitored shall be made available for communications to or from an attorney. These communications shall not be monitored, intercepted, recorded, or disclosed in any matter.

(b) The commissioner shall promulgate a policy directive establishing a record-keeping procedure which requires retention of: (1) A copy of the contents of any inmate electronic communication provided to law enforcement; and (2) the name of the law-enforcement officer and the law-enforcement agency to which the contents of the communications were provided. The records required to be retained pursuant to this subsection shall be retained in accordance with the record retention policy specified in §15A-4-8(a)(5) of this code. The inmate’s electronic communication and the information regarding law enforcement are law-enforcement records under §29B-1-4(a)(4) of this code.

(c) Should an inmate be charged with a crime based, in whole or in part, on the inmate’s electronic communication supplied to law enforcement, the inmate’s attorney in the criminal matter shall be entitled to access to and copies of the inmate’s electronic communications in the custody of the commissioner which are not evidence in or the subject of another criminal investigation.

(d) The provisions of this section shall apply only to those persons in the physical custody of the commissioner.

§15A-4-9. Trustee accounts and funds, earnings and personal property of inmates and residents.

(a) The commissioner is authorized to establish at each institution under his or her jurisdiction a “Trustee Fund”. The superintendent of each institution shall receive and take charge
of the money and personal property, as defined by policy, of all inmates or residents in his or her
institution and all money or personal property, as defined by policy, sent to the inmates or
residents or earned by the inmates as compensation for work performed while they are domiciled
there. The superintendent shall credit the money and earnings to the inmate or resident entitled
to it and shall keep an accurate account of all the money and personal property so received, which
account is subject to examination by the commissioner. The superintendent shall deposit the
moneys in one or more responsible banks in accounts to be designated "Trustee Fund".

(b) For all felony sentenced inmates, except those serving life without mercy and those
the superintendent determines are likely to serve the remainder of their natural lives in the custody
of the division due to their age and the length of their sentences, the superintendent shall keep in an account at least 10 percent of all money earned during the inmate's or resident's incarceration and pay the money to the inmate or resident at the time of the inmate's or resident's release. The superintendent may authorize the inmate to withdraw money from his or her mandatory savings for the purpose of preparing the inmate for reentry into society.

(c) The commissioner may direct that offenders who work in community work programs, including work release inmates who have obtained employment, make reimbursement to the state toward the cost of his or her incarceration.

(d)(1) Prior to ordering an incarcerated offender to make reimbursement toward the costs of his or her incarceration, the commissioner, or his or her designee, shall consider the following:

(A) The offender's ability to pay;

(B) The nature and extent of the offender's responsibilities to his or her dependents, if any;

(C) The length of probable incarceration under the court's sentence; and

(D) The effect, if any, that reimbursement might have on the offender's rehabilitation.

(2) No order of reimbursement entered pursuant to this section may exceed $500 per month unless the offender gives his or her express consent; and
(3) The commissioner shall, prior to the beginning of each fiscal year, prepare a report that details the average cost per inmate incurred by the division for the care and supervision of those individuals in his or her custody.

(e) The superintendent of any facility, on request of an inmate or resident, may expend up to one half of the money earned by the inmate or resident on behalf of the family of the inmate or resident if the 10 percent mandatory savings has first been set aside and other fees or court ordered obligations owed by the inmate or resident have been paid. The remainder of the money earned, after deducting amounts expended as authorized, shall be accumulated to the credit of the inmate or resident and be paid to the inmate or resident at times as may be prescribed by rules. The funds so accumulated on behalf of inmates or residents shall be held by the superintendent of each institution under a bond approved by the Attorney General.

(f) The superintendent shall deliver to the inmate or resident at the time he or she leaves the institution, or as soon as practicable after departure, all personal property, moneys, and earnings then credited to the inmate or resident, or in case of the death of the inmate or resident before authorized release from the institution, the superintendent shall deliver the property to the inmate's or resident's personal representative. In case a conservator is appointed for the inmate or resident while he or she is domiciled at the institution, the superintendent shall deliver to the conservator, upon proper demand, all moneys and personal property belonging to the inmate or resident that are in the custody of the superintendent.

(g) If any money is credited to a former inmate or resident after remittance of the sum of money as provided in §15A-4-9(f) of this code, the commissioner shall notify the former inmate or resident within 30 days of receipt of the money. The former inmate or resident will be afforded the opportunity to collect the money if he or she pays the cost of the transaction. If the former inmate or resident does not claim the money within 30 days of receiving the notice and the sum of money is less than $10, the commissioner may place the money into the inmate benefit fund.
(h) The provisions of this section apply to both juveniles and adults within the custody of the commissioner.

§15A-4-10. Inmate or resident benefit funds.

(a) The commissioner shall establish an inmate, or resident, benefit fund for each of the institutions under his or her jurisdiction. The inmate, or resident, benefit fund is a fund held by the institutions for the benefit and welfare of inmates incarcerated, or juveniles placed in facilities under the jurisdiction of the commissioner, and for the benefit of victims.

(b) There is continued a special revenue account in the State Treasury for each inmate, or resident, benefit fund established by the commissioner. If an account does not currently exist for an institution, the commissioner may establish the account for that institution. Moneys received by an institution for deposit in an inmate, or resident, benefit fund shall be deposited with the State Treasurer to be credited to the special revenue account created for the institution's inmate, or resident, benefit fund: Provided, That commissions on any contract providing services to jail inmates shall not be deposited into this account. Moneys in a special revenue account established for an inmate benefit fund may be expended by the institution for the purposes set forth in this section. Moneys to be deposited into an inmate, or resident, benefit fund consist of, but are not limited to:

(1) All profit from the exchange or commissary operation and if the commissary is operated by a vendor, whether a public or private entity, the profit is the negotiated commission paid to the Division of Corrections and Rehabilitation by the vendor;

(2) All net proceeds from vending machines used for inmate or resident visitation;

(3) All proceeds from contracted inmate or resident telephone commissions;

(4) Any funds that may be assigned by inmates or donated to the institution by the general public or an inmate service organization on behalf of all inmates or residents;

(5) Any funds confiscated considered contraband; and
(6) Any unexpended balances in individual inmate or resident trustee funds if designated by the inmate upon his or her discharge from the institution.

(c) The inmate benefit fund may only be used for the following purposes at facilities:

(1) Open-house visitation functions or other nonroutine inmate or resident functions;

(2) Holiday functions which may include decorations and gifts for children of inmates or residents;

(3) Cable television service;

(4) Rental of movies;

(5) Payment of video license;

(6) Recreational supplies, equipment, or area surfacing;

(7) Reimbursement of employee wages for overtime incurred during open-house visitations and holiday functions;

(8) Post-secondary education classes;

(9) Reimbursement of a pro rata share of inmate or resident work compensation;

(10) Household equipment and supplies in day rooms or units as approved by superintendents of institutions, excluding supplies used in the daily maintenance and sanitation of the unit;

(11) Christmas or other holidays gift certificates for each inmate or resident to be used at the exchange or commissary;

(12) Any expense associated with the operation of the fund;

(13) Expenditures necessary to properly operate an automated inmate family and victim information notification system;

(14) Any expense for improvement of the facility which will benefit the inmate or resident population that is not otherwise funded;

(15) Any expense related to the installation, operation, and maintenance of the inmate or resident telephone system; and
(16) Restitution of any negative balance on any inmate's trustee account for inmate medical copay, legal and ancillary related postage, and photocopy fees that are due the State of West Virginia, if the balance is uncollectible from an inmate after one calendar year from an inmate's release on parole or discharge date.

(d) The institution shall compile a monthly report that specifically documents inmate benefit fund receipts and expenditures and a yearly report for the previous fiscal year by September 1 of each year and submit the reports to the commissioner.

(e) The provisions of this section apply to both juveniles and adults within the custody of the commissioner.

§15A-4-11. Financial responsibility program for inmates.

(a) The Legislature finds that:

(1) There is an urgent need for vigorous enforcement of child support, restitution, and other court ordered obligations;

(2) The duty of inmates to provide for the needs of dependent children, including their necessary food, clothing, shelter, education, and health care should not be avoided because of where the inmate resides;

(3) A person owing a duty of child support who chooses to engage in behaviors that result in the person becoming incarcerated should not be able to avoid child support obligations; and

(4) Each sentenced inmate should be encouraged to meet his or her legitimate court-ordered financial obligations.

(b) As part of the initial classification process into a correctional facility, the division shall assist each inmate in developing a financial plan for meeting the inmate's child support obligations, if any exist. At subsequent program reviews, the division shall consider the inmate's efforts to fulfill those obligations as indicative of that individual's acceptance and demonstrated level of responsibility.
(c)(1) The superintendent shall deduct from the earnings of each inmate all legitimate court-ordered financial obligations. The superintendent shall also deduct child support payments from the earnings of each inmate who has a court-ordered financial obligation. The commissioner shall develop a policy that outlines the formula for the distribution of the offender's income and the formula shall include a percentage deduction, not to exceed 50 percent in the aggregate, for any court ordered victim restitution, court fees, and child support obligations owed under a support order, including an administrative fee, consistent with the provisions of §48-14-406(c) of this code, to support the division's administration of this financial service;

(2) If the inmate worker's income is subject to garnishment for child support enforcement deductions, it shall be calculated on the net wages after taxes, legal financial obligations, and garnishment;

(3) The division shall develop the necessary administrative structure to record inmates wages and keep records of the amount inmates pay for child support; and

(4) Nothing in this section limits the authority of the Bureau for Child Support Enforcement of the Department of Health and Human Resources from taking collection action against an inmate's moneys, assets, or property.

(d) If an inmate is awarded a civil judgment which awards him or her monetary damages, the court in which those damages are awarded shall enter an order which deducts all outstanding child support, restitution, or other court-ordered obligations from the award to the inmate, and satisfies those obligations, prior to releasing any funds to the inmate.

(e) The accumulation of the total funds, not necessary for current distribution, shall be invested, with the approval of the commissioner or as appropriate, through the West Virginia Municipal Bond Commission, in short term bonds or treasury certificates or equivalent of the United States. Bonds and certificates so purchased shall remain in the custody of the State Treasurer. The earnings from investments so made shall be reported to the principal officer of each institution from time to time, as earned, and shall be credited to the respective accounts of
the institutions by the West Virginia Municipal Bond Commission. When the earnings are transferred to the respective institutions, they shall be credited by the superintendent to the credit of, and for the benefit of, the inmate, or resident, benefit fund.

§15A-4-12. Limitation on reimbursement rate to medical service providers for services outside division facilities.

The division, or its contracted medical providers, may not pay an amount to an outside provider of a medical service for an adult inmate residing in a jail or correctional facility greater than the reimbursement rate applicable to service providers established in the West Virginia state Medicaid plan by the Bureau for Medical Services: Provided, That critical access hospitals shall be reimbursed at 75 percent of the billed charges. These limitations apply to all medical care services, goods, prescription drugs, and medications provided to a person who is in the custody of a correctional facility and is provided these services outside of a correctional facility: Provided, however, That the Department of Military Affairs and Public Safety and the Department of Health and Human Resources effectuate an interagency agreement for the electronic processing and payment of medical services.

§15A-4-13. Charges assessed against inmates for services provided by state.

(a) The commissioner is authorized to assess inmates serving a sentence in any state jail, penal, or correctional facility reasonable charges for health care and treatment services provided to them by the state. The charges assessed against an inmate may be deducted directly from the inmate’s trustee account without the inmate’s consent. The inmate shall be notified of the amount deducted and the charges to which it has been applied.

(b) As used in this section, a “reasonable charge” may not exceed the sum of $25 for any billable service. Inmates shall be notified of the fee schedule, billable services, and exempt services. Services initiated by the inmate shall be assessed a fee, except that no charge may be assessed for: (1) a specific health care service required under the law of this state, including, by way of illustration, tuberculin testing; (2) an emergency service following a traumatic injury other
than a self-induced injury, or necessary to prevent death or severe or permanent disability; (3)
diagnosis and treatment of communicable diseases, including, by way of illustration, tuberculosis
or hepatitis; (4) treatment of diagnosed severe mental illness; (5) treatment of specific chronic
conditions identified by the commissioner, including, by way of illustration, heart disease and
diabetes; (6) staff-initiated care, including follow-up and referral visits; (7) preventive services that
the commissioner determines are to be provided or made available to all inmates, including
services related to disease prevention and promotion of proper health habits; or (8) other services
as may be exempted by rule of the commissioner. No inmate may be denied any necessary
billable medical service because of inability to pay the charge.

  (c) Any inmate who intentionally ingests, inhales, injects, absorbs, applies, or otherwise
exposes himself or herself to, in any manner whatsoever not otherwise specified herein, an illegal
drug, a drug not legally prescribed to him or her, a drug in quantities above that recommended by
a prescribing physician, a synthetic intoxicant, or any substance for the purpose of causing an
excited, euphoric, or stupefied state, or altered perception, including hallucinations or delusions,
and the inmate requires medical treatment due to the ingestion, inhalation, injection, absorption,
application, or exposure shall reimburse the cost of the medical treatment to the division.

  (d) Each inmate shall be afforded an opportunity at least quarterly to review all deposits
into, withdrawals from, and balance remaining in the inmate's trustee account during the
preceding three months.

  (e) The commissioner shall promulgate interpretive rules implementing this section
pursuant to §29A-3-1 et seq. of this code prior to making any assessment under this section. The
policy directive rules may establish the fee schedule and list of billable services and further define
services to be exempted.

§15A-4-14. Record of inmate or resident.

The commissioner shall file and preserve the record of the indictment and conviction, in
the case of an adult, or the charges and adjudication, in the case of a juvenile, of each inmate or
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resident, and keep a register describing him or her, the term of his or her confinement, for what
offense, and when received into the institution.

§15A-4-15. Manufacture of license plates, road signs or markers; securing signs and
markers when federal government reimburses state for cost thereof.

For the purpose of obtaining license plates to be used upon motor vehicles licensed for
operation in this state and road signs or markers of any description for state roads, the
commissioner is hereby authorized and empowered on behalf of the state, to establish and
operate a plant for the manufacture of the license plates and road signs or markers in his or her
institution.

It shall be unlawful for any state official or employee to manufacture or obtain the license
plates, road signs, or markers otherwise than as herein specified: Provided, That the
Commissioner of Highways may originally secure road signs or markers from sources other than
that provided herein.

§15A-4-16. Gifts to or dealings with inmate or resident.

No officer or employee of the state, or contractor, or employee of a contractor shall make
any gift or present to an inmate or resident, or receive any from an inmate or resident, or have
any barter or dealings with a convict, except as allowed and permitted by the commissioner.

For every violation of this section, the party engaged therein shall be dismissed from his
or her office or service, and every contractor, or employee, or agent of a contractor engaged
therein shall be expelled from any facility within the jurisdiction of the commissioner, and not again
employed in any institution as a contractor, agent, or employee.

§15A-4-17. Deduction from sentence for good conduct; mandatory supervision.

(a) All current and future adult inmates sentenced to a felony and, placed in the custody
of the division, except those committed pursuant to §25-4-1 et seq. of this code, shall be granted
commutation from their sentences for good conduct in accordance with this section: Provided,
That nothing in this section shall be considered to recalculate the "good time" of inmates currently
serving a sentence or of giving back good time to inmates who have previously lost good time
earned for a disciplinary violation, except for those inmates currently serving a sentence for a
misdemeanor.

(b) The commutation of sentence, known as "good time", shall be deducted from the
maximum term of indeterminate sentences or from the fixed term of determinate sentences.

(c) Each inmate committed to the custody of the commissioner and incarcerated in a
facility pursuant to that commitment shall be granted one day good time for each day he or she is
incarcerated, including any and all days in jail awaiting sentence which are credited by the
sentencing court to his or her sentence pursuant to §61-11-24 of this code or for any other reason
relating to the commitment. An inmate may not be granted any good time for time served either
on parole or bond or in any other status when he or she is not physically incarcerated.

(d) An inmate sentenced to serve a life sentence is not eligible to earn or receive any good
time pursuant to this section.

(e) An inmate under two or more consecutive sentences shall be allowed good time as if
the several sentences, when the maximum terms of the consecutive sentences are added
together, were all one sentence.

(f) The commissioner shall promulgate disciplinary rules and policies. The rules and
policies shall describe acts that inmates are prohibited from committing, procedures for charging
individual inmates for violation of the rules, and for determining the guilt or innocence of inmates
charged with the violations, and the sanctions which may be imposed for the violations. A copy of
the rules shall be given to each inmate. For each violation, by a sanctioned inmate, any part or all
of the good time which has been granted to the inmate pursuant to this section may be forfeited
and revoked by the superintendent of the institution in which the violation occurred. The
superintendent when appropriate and with approval of the commissioner, may restore any
forfeited good time.

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(g) Each inmate, upon his or her commitment to, and being placed into the custody of the commissioner, or upon his or her return to custody as the result of violation of parole pursuant to §62-12-19 of this code, shall be given a statement setting forth the term or length of his or her sentence or sentences and the time of his or her minimum discharge computed according to this section.

(h) Each inmate shall be given a revision of the statement described in §15A-4-17(g) of this code when any part or all of the good time has been forfeited and revoked or restored pursuant to §15A-4-17(f) of this code, by which the time of his or her earliest discharge is changed.

(i) The superintendent may, with the approval of the commissioner, allow extra good time for inmates who perform exceptional work or service.

(j) There shall be no grants or accumulations of good time or credit to any current or future inmate serving a sentence in the custody of the Division of Corrections and Rehabilitation except in the manner provided in this section.

(k) Prior to the calculated discharge date of an inmate serving a sentence for a felony crime of violence against the person, a felony offense where the victim was a minor child or a felony offense involving the use of a firearm, one year shall be deducted from the inmate's accumulated good time to provide for one year of mandatory post-release supervision following the first instance in which the inmate reaches his or her calculated discharge date. All inmates released pursuant to this subsection shall be subject to electronic or GPS monitoring for the entire period of supervision. The provisions of this subsection are applicable to offenses committed on or after July 1, 2013.

(l) Upon sentencing of an inmate for a felony offense not referenced in §15A-4-17(k) of this code, the court may order that 180 days of the sentence, or some lesser period, be served through post-release mandatory supervision if the court determines supervision is appropriate and in the best interest of justice, rehabilitation, and public safety. All inmates released pursuant
to this subsection shall be subject to electronic or GPS monitoring for the entire period of supervision. The provisions of this subsection are applicable to offenses committed on or after July 1, 2013.

(m) The commissioner shall adopt policies and procedures to implement the mandatory supervision provided for in §15A-4-17(k) and §15A-4-17(l) of this code, which may include terms, conditions, and procedures for supervision, modification, and violation applicable to persons on parole.

(n) As used in this section, “felony crime of violence against the person” means felony offenses set forth in §61-2-1 et seq., §61-3E-1 et seq., §61-8B-1 et seq., or §61-8D-1 et seq. of this code, and the felony offenses of arson and burglary of a residence where an individual is physically located at the time of the offense as set forth in §61-3-1 et seq. of this code.

(o) As used in this section, “felony offense where the victim was a minor child” means any felony crime of violence against the person and any felony offense set forth in §61-8-1 et seq., §61-8A-1 et seq., §61-8C-1 et seq., or §61-8D-1 et seq. of this code.

§15A-4-18. Governor’s authority to authorize commissioner to consent to transfer of inmates under a federal treaty.

If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, the Governor may, on behalf of the state and subject to the terms of the treaty and with the consent of the offender, authorize the commissioner to consent to the transfer or exchange of inmates in his or her custody and take any other action necessary to initiate the participation of this state in the treaty. No transfer may occur pursuant to the provisions of this section until the inmate is informed of his or her rights and the procedures involved in his or her native language unless it is determined that the inmate’s knowledge of English is sufficient.
§15A-4-19. Mentally ill inmates; treatment; transfer between correctional and mental health facilities; correctional facility procedures.

(a) No person who is, or was considered to be, mentally ill, intellectually disabled, or addicted shall be denied parole or a parole hearing based upon the past or present condition. In the event a convicted person is deemed to be an appropriate candidate for parole, but for a condition warranting involuntary hospitalization of the person, shall be paroled, and proceedings instituted pursuant to §27-5-4 of this code. Any time spent in such a facility shall be considered part of the term, and any person whose sentence expires while receiving treatment for a mental condition shall be discharged unless proceedings have been instituted and a determination made pursuant to §27-5-4 of this code.

(b) When a convicted person in a jail, prison, or other facility is believed to be mentally ill, intellectually disabled, or addicted, as those terms are defined in §27-1-1 et seq. of this code, and in need of treatment, training, or other services, the facts relating to the illness, shall be presented to the superintendent of the facility. The facts may be presented by a correctional officer, member of a correctional institution medical staff, relative, or the convicted person. Immediately upon receipt of the facts, the superintendent shall arrange for psychiatric or psychological examination of the person alleged to be so afflicted. If the report of the examination is to the effect that the individual is mentally ill, intellectually disabled, or addicted and that treatment, training, or other services are required which cannot reasonably be provided at the correctional facility, the superintendent shall file within 20 days after presentation of the facts an application for transfer with the clerk of the circuit court of the county of location of the correctional facility. The application for transfer shall include a statement of the nature of the treatment which the person's condition warrants and the facility to which transfer is sought.

Within 10 days of receipt of the application from the superintendent, the mental hygiene commissioner or circuit judge shall appoint counsel for the convicted person if the person is indigent.
The clerk of the circuit court shall forthwith notify the convicted person, by certified mail, return receipt requested, delivered only to addressee, that the application has been filed, enclosing therewith a copy of the application with an explanation of the place and purpose of the transfer and the type of treatment to be afforded, together with the name, address, and telephone number of any appointed counsel. The person shall be afforded reasonable telephone access to his or her counsel. The clerk shall also notify the superintendent or other chief administrative officer of the facility to which transfer is sought. Within 15 days after receipt of notice, the convicted person, through counsel, shall file a verified return admitting or denying the allegations and informing the court or mental hygiene commissioner as to whether the respondent wishes to oppose the transfer. Counsel shall file the return only after personal consultation with the convicted person. The superintendent of the facility to which transfer is sought shall also file a return within 15 days of the receipt of notice, informing the court or mental hygiene commissioner as to whether the needed treatment or other services can be provided within that facility. If the superintendent objects to receiving the convicted person for treatment or services, the reasons for the objection shall be specified in detail.

If the transfer is opposed by either the convicted person or by the superintendent of the facility to which transfer is sought, the matter shall forthwith be set for hearing, in no event to exceed 30 days from the date of the return opposing the transfer, and the clerk shall provide to the convicted person, the superintendent of the facility to which transfer is sought, and the superintendent of the correctional facility, at least 10 days written notice, by certified mail, return receipt requested, of the purpose, time, and place of the hearing.

The convicted person shall be present at the hearing, and be afforded an opportunity to testify and to present and cross-examine witnesses. Counsel for the convicted person shall be entitled to copies of all medical reports upon request. The person shall have the right to an examination by an independent expert of the person’s choice and testimony from the expert as a medical witness on the person’s behalf. The cost of providing the medical expert shall be borne
by the state if the person is indigent. The person shall not be required to give testimony which is
self-incriminating. The circuit court or mental hygiene commissioner shall hear evidence from all
parties, in accord with the rules of evidence. A transcript or recording shall be made of all
proceedings, and transcript made available to the person within 30 days, if the same is requested
for the purpose of further proceedings, and without cost if the person is indigent.

Upon completion of the hearing, and consideration of the evidence presented therein, the
circuit court or mental hygiene commissioner shall make findings of facts as to whether or not: (1)
The individual is mentally ill, intellectually disabled, or addicted; (2) the individual because of
mental illness, mental retardation, or addiction is likely to cause serious harm to self or others; (3)
the individual could not obtain the requisite treatment or training at the correctional facility or
another appropriate correctional facility; and (4) the designated facility to which transfer is sought
could provide the treatment or training with the security as the court finds appropriate; and, if all
the findings are in the affirmative, the circuit court may order the transfer of the person to the
appropriate facility. The findings of fact shall be incorporated into the order entered by the circuit
court. In all proceedings hereunder, proof of mental condition and of likelihood of serious harm
must be established by clear, cogent, and convincing evidence, and the likelihood of serious harm
must be based upon evidence of recent overt acts.

§15A-4-20. Work program.

(a) The commissioner is authorized to establish at each institution a work program for
qualified inmates. The commissioner shall establish guidelines and qualifications to allow inmates
sentenced to a regional jail facility to be gainfully employed with local businesses and
governmental entities as part of a job program. A qualified inmate does not include an inmate
convicted of a sexual offense or a violent felony.

(b) An inmate who works in work programs established under this section may be required
to make reimbursement to the division toward the cost of his or her incarceration to be credited
to the agency billed for that incarceration, pursuant to the conditions set forth in §15A-4-19 of this
code.
(c) Notwithstanding any provision of this code to the contrary, the county commission, its members and agents, the Division of Corrections and Rehabilitation or designee, its employees, agents, or assigns, the Regional Jail and Correctional Facility Authority Board, its members, agents, or assigns, the sheriff, and his or her deputies, shall be immune from all liability of any kind except for accident, injury, or death resulting directly from gross negligence or malfeasance.

§15A-4-21. Director of employment; director of housing; released inmates; duties.

The commissioner may employ or contract for a Director of Employment and a Director of Housing for released inmates. The Director of Employment shall work with federal, state, county, and local government and private entities to negotiate agreements which facilitate employment opportunities for released inmates. The Director of Housing shall work with federal, state, county, and local government and private entities to negotiate agreements which facilitate housing opportunities for released inmates. The Director of Employment shall investigate job opportunities and give every possible assistance in helping released inmates find employment. The Director of Housing shall work in conjunction with the Bureau of Community Corrections and the Parole Board to reduce release delays due to lack of a home plan, develop community housing resources, and provide short-term loans to released inmates for costs related to reentry into the community.

ARTICLE 5. BUREAU OF PRISONS AND JAILS.


(a) The commissioner shall establish a Bureau of Prisons and Jails. The commissioner shall determine what adult facilities or institutions shall appropriately be managed by the Bureau of Prisons and Jails.

(b) The commissioner shall appoint an assistant commissioner, who shall oversee the Bureau of Prisons and Jails.
(c) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

§15A-5-2. Transfer of duties and funds of Division of Corrections.

All prior conveyed responsibilities of the Division of Corrections, and its Commissioner are hereby transferred to the Division of Corrections and Rehabilitation. All funds, both general revenue and special revenue, are hereby transferred to the Division of Corrections and Rehabilitation. Any funds administered by the Division of Corrections are to be administered by the Division of Corrections and Rehabilitation, and its Commissioner.

§15A-5-3. Superintendents; duties and authority; bond; residence.

(a) The commissioner shall appoint a superintendent for each institution under the control of the division. Each superintendent shall be bonded by the Board of Risk and Insurance Management.

(b) The superintendent shall be the chief executive officer of his or her assigned correctional institution and, subject to the direction of the commissioner, has the responsibility for the overall management of all operations within his or her assigned institution. The superintendent shall be in charge of its internal police and management and shall provide for feeding, clothing, working and taking care of the inmates, subject to the control of the commissioner.

(c) The superintendent shall promptly enforce all orders and rules made by the commissioner. He or she shall protect and preserve the property of the state and may for that purpose punish the inmates in the manner authorized by the commissioner. The superintendent shall have the custody and control of all the real and personal property at the correctional institution, subject to the orders of the commissioner.

(d) The commissioner may authorize the superintendent to establish an imprest fund in accordance with the provisions of §12-2-2 of this code for the sole purpose of providing employees with funds to transport inmates for any purpose as determined by the superintendent, and any of the fund that currently exists is hereby continued. The employee is required to complete a travel
reimbursement form for the travel within five days of returning to the correctional facility. The funds shall be used to reimburse the imprest fund for the amount expended by the employee.

§15A-5-4. Appointment of deputy superintendent; duties; bond.

Each superintendent, with the approval of the commissioner, may hire a deputy superintendent. The deputy superintendent’s duties shall be fixed by the superintendent, as approved by the commissioner. In the absence of the superintendent, the deputy superintendent shall perform all the duties required of the superintendent. The deputy superintendent shall be bonded by the Board of Risk and Insurance Management.

§15A-5-5. Hiring of other assistants and employees.

The superintendent of each correctional institution or unit shall, in the manner provided in §15A-3-5 of this code, hire all assistants and employees required for the management of the correctional institutions or units, including a sufficient number of correctional employees to preserve order and enforce discipline among the inmates, to prevent escapes, and to remove all persons convicted and sentenced to the custody of the Division of Corrections and Rehabilitation, from the place confined to a correctional institution, all of whom shall be under the control of the superintendent: Provided, That the number of the assistants and employees, and their compensation, shall first be approved by the commissioner.

All persons employed at a state-operated correctional institution or correctional unit are subject to the supervision and approval of the superintendent and the authority of the commissioner, or his or her designee, except those persons employed by the State Board of Education, pursuant to §18-2-13f of this code.

§15A-5-6. Jail intake facilities; housing of adult inmates.

To the extent practicable, and in a manner consistent with providing for the safety of the public, correctional employees, and inmates, the commissioner will create space in every adult institution for both jail and prison populations: Provided, That in no case shall the commissioner be required to provide jail space in every institution in excess of space necessary for initial
receiving, booking, and holding of an inmate to await transport by the Division of Corrections and Rehabilitation to the most appropriate housing placement for that inmate. In no case may a person who is a pretrial detainee, who is not currently serving a felony sentence in the custody of the commissioner, be held in a space designated as a prison unit. Further, no convicted misdemeanant actively serving a sentence on a misdemeanor shall be held in a space designated as a prison unit.


(a) Within three calendar days of the arrest and placement of any person in a jail, the division shall conduct a pretrial risk assessment using a standardized risk assessment instrument approved and adopted by the Supreme Court of Appeals of West Virginia. The results of all standardized risk and needs assessments are confidential and shall only be provided to the court, court personnel, the prosecuting attorney, defense counsel, and the person who is the subject of the pretrial risk assessment. Upon completion of the assessment, the Division of Corrections and Rehabilitation shall provide it to the magistrate and circuit clerks for delivery to the appropriate circuit judge or magistrate.

(b) The pretrial risk assessment and all oral or written statements made by an individual during risk assessment shall be inadmissible evidence at any criminal or civil trial.


(a) A person committed to be housed in jail by order of magistrate, circuit judge, or by temporary commitment order shall, at the time of initial booking into the jail, pay a processing fee of $30. If the person is unable to pay at the time of booking, the fee shall be deducted, at a rate of 50 percent, from any new deposits made into the person's trust account until the jail processing fee is paid in full. The fee shall be credited to:

(1) The Jail's operating budget if the person is committed to and housed in a jail;

(2) The county commission if the person is committed to and housed in a county jail; or
(3) The municipality if the person is committed to and housed in a municipal jail. The fee should be paid prior to the offender being released.

(b) A refund of a fee collected under this section shall be made to a person who has paid the fee if the person is not convicted of the offense for which the person was booked and the person provides documentation from the court showing that all charges for which the person was booked were dismissed, accurate current name and address and a valid photographic identification. In the case of multiple offenses, if the person is convicted of any of the offenses the fee may not be refunded. If the person is convicted of a lesser included offense or a related offense, no refund may be made.


Notwithstanding any other provision of this code, the commissioner, or any employee of the division, having authority to accept offenders in a jail is not required to accept those offenders if an offender appears to be in need of medical attention of a degree necessitating treatment by a physician. If an offender is refused pursuant to the provisions of this section, he or she may not be accepted for detention until a written clearance from a licensed physician reflecting that the offender has been examined and if necessary treated, and which states that it is the physician's medical opinion that the offender can be safely housed in a jail.

ARTICLE 6. BUREAU OF JUVENILE SERVICES.

§15A-6-1. Creation of Bureau of Juvenile Services; organization of facilities.

(a) The Commissioner of Corrections and Rehabilitation shall establish a Bureau of Juvenile Services. This bureau shall manage any juvenile facilities or units, as determined pursuant to §15A-3-12 of this code.

(b) The commissioner shall appoint an assistant commissioner, who shall oversee the Bureau of Juvenile Services.

(c) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.
§15A-6-2. Transfer of duties and funds.

All prior conveyed responsibilities and duties of the Division of Juvenile Services, and the Director of Juvenile Services, outlined in §49-1-101 et seq. of this code, are hereby transferred and conveyed to the Division of Corrections and Rehabilitation, and to its Commissioner. Any funds administered by the Division of Juvenile Services are to be administered by the Division of Corrections and Rehabilitation, and its Commissioner.

§15A-6-3. Superintendents; duties and authority; bond; residence.

(a) The commissioner shall appoint a superintendent for each institution under the control of the division. Each superintendent shall be bonded by the Board of Risk and Insurance Management.

(b) The superintendent shall be the chief executive officer of his or her assigned correctional institution and, subject to the direction of the commissioner, has the responsibility for the overall management of all operations within his or her assigned institution. The superintendent shall be in charge of its internal police and management and shall provide for feeding, clothing, working and taking care of the inmates, subject to the control of the commissioner.

(c) The superintendent shall promptly enforce all orders and rules made by the commissioner. He or she shall protect and preserve the property of the state and may for that purpose punish the inmates in the manner authorized by the commissioner. The superintendent shall have the custody and control of all the real and personal property at the correctional institution, subject to the orders of the commissioner.

(d) The commissioner may authorize the superintendent to establish an imprest fund in accordance with the provisions of §12-2-2 of this code for the sole purpose of providing employees with funds to transport inmates for any purpose as determined by the superintendent, and any of the fund that currently exists is hereby continued. The employee is required to complete a travel reimbursement form for the travel within five days of returning to the correctional facility. The funds shall be used to reimburse the imprest fund for the amount expended by the employee.
§15A-6-4. Appointment of deputy superintendent; duties; bond.

Each superintendent, with the approval of the commissioner, may hire a deputy superintendent. The deputy superintendent’s duties shall be fixed by the superintendent, as approved by the commissioner. In the absence of the superintendent, the deputy superintendent shall perform all the duties required of the superintendent. The deputy superintendent shall be bonded by the Board of Risk and Insurance Management.

§15A-6-5. Hiring of other assistants and employees; duties of correctional employees.

The superintendent of each juvenile institution or unit shall, in the manner provided in §15A-3-5 of this code, hire all assistants and employees required for the management of the juvenile institutions or units, including a sufficient number of correctional employees to preserve order and enforce internal rules among the juvenile inmates, to prevent escapes, and carry out all other responsibilities as outlined in chapter 49 of this code.

All persons employed at a state-operated juvenile facility are subject to the supervision and approval of the superintendent and the authority of the commissioner, or his or her designee, except those persons employed by the State Board of Education, pursuant to §18-2-13f of this code.

ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-1. Creation of Bureau of Community Corrections; Organization of facilities.

(a) The commissioner shall establish a Bureau of Community Corrections. The commissioner shall establish which adult facilities or institutions shall appropriately be managed by the Bureau of Community Corrections.

(b) The commissioner shall appoint an assistant commissioner, who shall oversee the Bureau of Community Corrections.

(c) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.
§15A-7-2. Duties of superintendents; bond; residence.

The commissioner shall appoint a Superintendent for each institution under the control of the division. The superintendent of a community corrections facility shall have the same duties and responsibilities as described in §15A-3-1 et seq. of this code.

§15A-7-3. Hiring of other assistants and employees; duties of employees.

(a) Each superintendent of a community corrections facility shall, in the manner provided in §15A-3-5 of this code, hire all assistants and employees required for the management of these facilities or units, including a sufficient number of correctional employees to preserve order and enforce discipline among the inmates or parolees, to prevent escapes, to enforce laws, rules, and policies, and to protect the public. Any person employed by the office of the Commissioner of the Division of Corrections and Rehabilitation who on the effective date of this article is a classified civil service employee shall, within the limits contained in §29-6-1 et seq. of this code, remain in the civil service system as a covered employee.

(b) The commissioner shall, in the manner provided in §15A-3-5 of this code, hire all probation and parole officers, assistants, and employees required to carry out the duties as proscribed in this code for management of the parolee population, and probation population, as set forth in §15A-7-4 and §62-13-2(b) of this code, for the management of parolees, to preserve order, and enforce discipline among the parolees, to enforce laws, rules, and policies, and to protect the public. Any person employed by the office of the Commissioner of the Division of Corrections and Rehabilitation who on the effective date of this article is a classified civil service employee shall, within the limits contained in §29-6-1 et seq. of this code, remain in the civil service system as a covered employee. Nothing in this section shall limit the abilities of the Supreme Court of Appeals of this state to carry forth their responsibilities and duties as proscribed in this code. All persons appointed or employed by the director shall be paid all necessary expenses incurred in the discharge of their duties.
Enr. CS for HB 4338

§15A-7-4. Supervision of probationers and parolees; final determinations remaining with board of probation and parole.

The commissioner shall supervise all persons released on parole and placed in the charge of a state parole officer and all persons released on parole under any law of this state. He or she shall also supervise all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the uniform act for out-of-state probation and parolee supervision. The commissioner shall prescribe rules for the supervision of probationers and parolees under his or her supervision and control, and shall succeed to all administrative and supervisory powers of the Parole Board and the authority of the Parole Board in those matters only.

The commissioner shall administer all other laws affecting the custody, control, treatment, and employment of persons sentenced or committed to institutions under the supervision of the department or affecting the operation and administration of institutions or functions of the division. The final determination regarding the release of inmates from penal institutions and the final determination regarding revocation of parolees from those institutions pursuant to the provisions of §62-12-1 et seq. of this code shall remain within the exclusive jurisdiction of the Parole Board.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;
(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than $1,000 nor more than $3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant: (1) Arrest or order confinement of any parolee or probationer under his or her supervision; and (2) search a parolee or probationer, or a parolee or probationer’s residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee’s whereabouts, or a parolee’s activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.
(c) The Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

§15A-7-6. Parole supervision benefit fund.

(a) There is continued a special revenue account in the State Treasury designated the "Parole Supervision Benefit Fund". The fund is to be used by the Division of Corrections and Rehabilitation for the benefit of parolee supervision with approval of the commissioner. The fund shall consist of moneys received from any source, including, but not limited to, funds donated by the general public or an organization dedicated to parole supervision improvement, and funds seized from parolees that are forfeited pursuant to the provisions of §60A-7-701 et seq. of this code.

(b) Notwithstanding any other provision of this code to the contrary, the commissioner may authorize use of the money in the fund created pursuant to this section for payment to a community corrections program established pursuant to §62-11C-1 et seq. of this code for providing enhanced supervision of parolees.

ARTICLE 8. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY BOARD.

§15A-8-1. Powers and authority of the Regional Jail and Correctional Facility Authority Board; continuation of the Regional Jail and Correctional Facility Authority Board; payment of bonds; appeal of per diem rate.

(a) The Regional Jail and Correctional Facility Authority Board is continued, as follows:
(1) The powers and authority of the Regional Jail and Correctional Facility Authority Board, in relation to all functions of correctional operations, are hereby abolished, and these powers and authority are transferred to the Division of Corrections and Rehabilitation as of July 1, 2018. The Regional Jail and Correctional Facility Authority Board shall only retain the powers as now outlined in this chapter. Where reference in this code is made to the Regional Jail and Correctional Facility Authority, in relation to operations of any of the regional jails, it shall be construed to mean the Division of Corrections and Rehabilitation.

(2) The following powers and authority of the Regional Jail and Correctional Facility Board are hereby specifically abolished:

   (A) To mortgage or otherwise grant security interests in its property;

   (B) To borrow money and to issue its negotiable bonds, security interests, or notes and to provide for and secure the payment thereof, and to provide for the rights of the holders thereof, and to purchase, hold, and dispose of any of its bonds, security interests, or notes;

   (C) To sell, at public or private sale, any bond or other negotiable instrument, security interest or obligation of the authority in a manner and upon terms that the authority considers would best serve the purposes of this article;

   (D) To issue its bonds, security interests, and notes payable solely from the revenues or other funds available to the authority therefor; and the authority may issue its bonds, security interests, or notes in those principal amounts as it considers necessary to provide funds for any purposes under this article, including:

      (i) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on, any bonds, security interests, or notes issued by it whether the bonds, security interests, notes, or interest to be funded or refunded have or have not become due; and

      (ii) The establishment or increase of reserves to secure or to pay bonds, security interests, notes, or the interest thereon and all other costs or expenses of the Division of Corrections and Rehabilitation incident to and necessary or convenient to carry out its purposes and powers. Any
bonds, security interests, or notes may be additionally secured by a pledge of any revenues, funds, assets, or moneys of the authority from any source whatsoever;

(E) To issue renewal notes or security interests, to issue bonds to pay notes or security interests and, whenever it considers refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no renewal notes shall be issued to mature more than 10 years from date of issuance of the notes renewed and no refunding bonds may be issued to mature more than 25 years from the date of issuance;

(F) To apply the proceeds from the sale of renewal notes, security interests, or refunding bonds to the purchase, redemption, or payment of the notes, security interests, or bonds to be refunded; and

(G) To sell security interests in the loan portfolio of the authority. The security interests shall be evidenced by instruments issued by the authority.

(3) The powers and duties of the board in relation to paying the current bond series, designated as The State Building Commission of West Virginia Lease Revenue Refunding Bonds (West Virginia Regional Jail and Correctional Facility Authority) Series 1998A, Series 1998B, and Series 1998C are specifically continued. The board, however, may not reissue these bonds, renegotiate the terms of the current bonds, or refinance these bonds. There is hereby created in the State Treasury a Regional Jail and Correctional Facility Board Fund. The fund shall be controlled by the board, and shall be utilized for the sole purpose of payment of the outstanding bond series as provided above. The Commissioner of the Division of Corrections and Rehabilitation shall, on or before the fifth day of every month, transfer to this fund the amount necessary for the monthly payment of the bond, as set forth by the yearly communication from the creditor of the bonds. Further, on the effective date of this section, the commissioner shall transfer to this fund the reserve amount required by the bonds. On the date that the bonds are satisfied in full, these obligations shall cease, and any funds left in the board fund shall be transferred to the Commissioner of the Division of Corrections and Rehabilitation: Provided, That
the funds can only be used in the manner directed or established by the board. Further, the board retains the authority to be able, and with consent of the Secretary of the Department of Military Affairs and Public Safety, to the extent permitted under its contracts with the holders of bonds, security interests, or notes of the authority, consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interest, note, or contract or agreement of any kind to which the authority is a party.

(4) The Regional Jail Authority shall review the per diem cost set by the state Budget Office, pursuant to §15A-3-16 of this code. If the authority believes that the amount set by the state Budget Office is incorrect, or that the amounts submitted by the Division of Corrections and Rehabilitation include more than what should be attributed to the efficient operation of jail facilities and units, the authority may institute an action in regard to this pursuant to §29A-5-1 et seq. of this code.

(5) The Regional Jail Authority retains the ability to sue, as defined in this article, and to be sued.

(b) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

§15A-8-2. West Virginia Regional Jail and Correctional Facility Authority Board; composition; appointment; terms; compensation and expenses.

The West Virginia Regional Jail and Correctional Facility Authority Board is continued. The members of the board in office on the date this section takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

The authority shall be governed by a board of nine members, seven of whom are entitled to vote on matters coming before the authority. The complete governing board shall consist of the Commissioner of the Division of Corrections; the Assistant Commissioner for the Bureau of Juvenile Services; the Secretary of the Department of Military Affairs and Public Safety; the
Secretary of the Department of Administration, or his or her designated representative; two county
commissioners and one sheriff appointed by the Governor, no more than two of which may be of
the same political party; and two citizens appointed by the Governor to represent the areas of law
and medicine. The Commissioner of the Division of Corrections and Rehabilitation and the
Assistant Commissioner for the Bureau of Juvenile Services shall serve in an advisory capacity
and are not entitled to vote on matters coming before the authority. Members of the Legislature
are not eligible to serve on the board.

The Governor shall nominate and, by and with the advice and consent of the Senate,
appoint the five appointed members of the authority for staggered terms of four years.

Any appointed member whose term has expired shall serve until his or her successor has
been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the
unexpired term. Any appointed member is eligible for reappointment. Members of the board are
not entitled to compensation for services performed as members, but are entitled to
reimbursement for all reasonable and necessary expenses actually incurred in the performance
of their duties.

All members of the board shall execute an official bond in a penalty of $10,000,
conditioned as required by law. Premiums on the bond shall be paid from funds accruing to the
Division of Corrections and Rehabilitation. The bond shall be approved as to form by the Attorney
General and as to sufficiency by the Governor and, when fully executed and approved, shall be
filed in the office of the Secretary of State.

§15A-8-3. Governing body; organization and meetings; quorum; administrative expenses.

(a) The board shall consist of the voting members of the board as provided for in §15A-8-
2 of this code and shall exercise all the powers given to the authority in this article. On the second
Monday of July of each odd-numbered year, the board shall meet to elect a chairman and a
secretary from among its own members. The Secretary of the Department of Administration or
his or her designated representative shall serve as treasurer of the board. The board shall otherwise meet two times a year, unless a special meeting is called by its chairman. (b) A majority of the members of the board constitute a quorum, and a quorum must be present for the board to conduct business. Unless the bylaws require a larger number, action may be taken by majority vote of the members present.

(c) The board shall prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the authority is conducted and shall review and approve the budget prepared by the executive director annually.

(d) All costs incidental to the administration of the board shall be paid from the jail operation fund by the Commissioner of Corrections and Rehabilitation.

CHAPTER 19. AGRICULTURE.

ARTICLE 12A. LAND DIVISION.


(a) On or before July 1, 1990, the commission shall meet and confer with respect to the development of a management plan to determine the optimum use or disposition of all institutional farms, at which time the Farm Management Director shall provide the commission with a complete inventory of all institutional farms, and such information relating to easements, mineral rights, appurtenances, farm equipment, agricultural products, livestock, inventories, and farm facilities as may be necessary to develop such management plan. The commission shall complete and provide to the Governor a management plan, which plan shall set forth the objectives of the commission with respect to institutional farms, the criteria by which the commission shall determine the optimum use or disposition of such property, and determinations as to whether each institutional farm shall be used in production, sold, or leased, in whole or in part. Prior to the adoption of any plan, the commission shall consult with the secretaries of the various departments of state government and shall request from such secretaries suggestions for land use and
resource development on farm commission lands. On or before December 1, 1990, such management plan shall be presented to the Legislature, by providing a copy to the President of the Senate and the Speaker of the House of Delegates. The commission may confer with any other agency or individual in implementing and adjusting its management plan. The management plan established pursuant to this subsection may be amended, from time to time, as may be necessary.

(b) The commission shall manage its institutional farms, equipment, and other property in order to most efficiently produce food products for state institutions and shall implement the intent of the Legislature as set forth by this article. From the total amount of food, milk and other commodities produced on institutional farms, the commission shall sell, at prevailing wholesale prices, and each of the institutions under the control of the Bureau of Public Health shall purchase, a proportionate amount of these products based on the dietary needs of each institution.

(c) If requested by the Commissioner of Corrections and Rehabilitation, the commission may authorize the Division of Corrections and Rehabilitation to operate a farm or other enterprise using inmates as labor on those lands. The Commissioner of Corrections and Rehabilitation is responsible for the selection, direction, and supervision of the inmates and shall assign the work to be performed by inmates.

(d) The commission is hereby authorized and empowered to:

(1) Lease to public or private parties, for purposes including agricultural production or experimentation, public necessity, or other purposes permitted by the management plan, any land, easements, equipment, or other property, except that property may not be leased for any use in any manner that would render the land toxic for agricultural use, nor may toxic or hazardous materials as identified by the Commissioner of Agriculture be used or stored upon such property unless all applicable state and federal permits necessary are obtained. Any lease for an annual consideration of $1,000 or more shall be by sealed bid auction and the commission shall give notice of such auction by publication thereof as a Class II-0 legal advertisement in compliance
with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication is
the county in which the property to be leased is located;

(2) Transfer to the public land corporation land designated in its management plan as land
to be disposed of, which land shall be sold, exchanged, or otherwise transferred pursuant to §5A-
11-4 and §5A-11-5 of this code: *Provided,* That the net proceeds of the sale of farm commission
lands shall be deposited in the General Revenue Fund of the state: *Provided, however,* That no
sale may be concluded until on or after March 15, 1991, except with respect to: (A) Properties
located at institutions closed on or before the effective date of this section, March 10, 1990; or (B)
properties conveyed to or from the farm management commission to or from any other entity in
order to facilitate the construction of a regional jail or correctional facility by the Regional Jail and
Correctional Facilities Authority or the State Building Commission, with the decision to execute
any such conveyance being solely within the discretion of, and at the direction of, the Regional
Jail and Correctional Facilities Authority;

(3) Develop lands to which it has title for the public use including forestation, recreation,
wildlife, stock grazing, agricultural production, rehabilitation and/or other conservation activities
and may contract or lease for the proper development of timber, oil, gas, or mineral resources,
including coal by underground mining or by surface mining where reclamation as required by
specifications of the Division of Environmental Protection will increase the beneficial use of such
property. Any such contract or lease shall be by sealed bid auction as provided for in subdivision
(1) above;

(4) Exercise all other powers and duties necessary to effectuate the purposes of this
article.

(e) Notwithstanding the provisions of subsection (d) of this section, no timberland may be
leased, sold, exchanged, or otherwise disposed of unless the Division of Forestry of the
Department of Commerce, Labor and Environmental Resources certifies that there is no
commercially salable timber on the timberland, an inventory is provided, an appraisal of the timber
is provided, and the sale, lease, exchange, or other disposition is accomplished by the sealed bid
auction procedure provided above in subdivisions (1) or (2), as applicable.

(f) The commission shall promulgate, pursuant to §29-1-1 et seq. of this code, rules and
regulations relating to the powers and duties of the commission as enumerated in this section.

CHAPTER 25. DIVISION OF CORRECTIONS.

ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

§25-1-1. Office of commissioner of public institutions abolished; department and
commissioner of corrections established; qualifications, oath and bond.

[Repealed.]

§25-1-1a. Purpose and legislative intent.

[Repealed.]

§25-1-3. Institutions managed by Commissioner of Corrections; certain institutions
transferred to Department of Health and Human Resources; establishment of work
and study release units; contracting with certain entities for reentry and direct
placement services; reports to Governor.

[Repealed.]

§25-1-3a. Trustee accounts and funds, earnings and personal property of inmates.

[Repealed.]

§25-1-3b. Inmate benefit funds.

[Repealed.]

§25-1-3c. Financial responsibility program for inmates.

[Repealed.]

§25-1-4. Limitation on reimbursement rate to medical service providers for services
provided for services outside division facilities.

[Repealed.]
§25-1-5. Rules and regulations.
[Repealed.]

[Repealed.]

§25-1-6. Title to property of state institutions; custody of deeds and other muniments of title; authority of commissioner.
[Repealed.]

§25-1-7. Pruntytown Correctional Center established as a minimum security facility; limitations on type of residents therein.
[Repealed.]

§25-1-8. Charges assessed against inmates for services provided by state.
[Repealed.]

§25-1-11. Officers and employees of corrections institutions.
[Repealed.]

§25-1-11a. Duties of wardens and administrators; bond; residence.
[Repealed.]

§25-1-11b. Appointment of deputy warden; duties; bond.
[Repealed.]

§25-1-11c. Hiring of other assistants and employees; duties of correctional employees; right to carry weapons; powers of correctional peace officers.
[Repealed.]

§25-1-11d. Compensation of employees approved by commissioner; traveling and other expenses; payment of salaries.
[Repealed.]
§25-1-11e. Unauthorized use of uniform, badge, identification card or other insignia; impersonation of member; and penalty.

[Repealed.]

§25-1-11f. Hiring of correctional officer without regard to position on the register.

[Repealed.]


[Repealed.]

§25-1-14. Electronic monitoring of offenders; special account.

[Repealed.]


[Repealed.]

§25-1-16. Transfer of inmates of state institutions or facilities.

[Repealed.]

§25-1-16a. Governor's authority to authorize commissioner of corrections to consent to transfer of inmates under a federal treaty.

[Repealed.]

§25-1-17. Monitoring of inmate telephone calls; procedures and restrictions; calls to or from attorneys excepted.

[Repealed.]

§25-1-18. Monitoring inmate mail; procedures and restrictions; identifying mail from a state correctional institution; mail to or from attorneys excepted.

[Repealed.]

§25-1-19. Reports by Commissioner of Public Institutions and chief officers of institutions to Auditor.

[Repealed.]
§25-1-20. Reports to Governor.
1 [Repealed.]

1 [Repealed.]

§25-1-22. Task Force to Study the Feasibility of Establishing a Correctional Facility for the Incarceration and Treatment of Sex Offenders; members; duties.
1 [Repealed.]

CHAPTER 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.

ARTICLE 5. THE PENITENTIARY.

§28-5-7. Record of convict.
1 [Repealed.]

§28-5-8a. Manufacture of license plates, road signs or markers; securing signs and markers when federal government reimburses state for cost thereof.
1 [Repealed.]

§28-5-23. Special compensation of officers and employees prohibited; penalty.
1 [Repealed.]

§28-5-24. Gifts to or dealings with convicts.
1 [Repealed.]

§28-5-27. Deduction from sentence for good conduct; mandatory supervision.
1 [Repealed.]

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-1. Short title.
1 [Repealed.]
§31-20-1a. Legislative findings and purposes.

§31-20-2. Definitions.

§31-20-3. West Virginia Regional Jail and Correctional Facility Authority; composition; appointment; terms; compensation and expenses.

§31-20-4. Governing body; organization and meetings; quorum; administrative expenses.

§31-20-5. Powers and duties of the authority; bidding procedures.

§31-20-5a. Bidding procedures.

§31-20-5b. Prohibition against use or possession of tobacco products by inmates held by regional facility authority in regional jails operated solely by the authority; authorization to establish smoking cessation program.

§31-20-5c. Additional powers and duties of the authority; juvenile detention facilities.

§31-20-5d. Good-time credit.

§31-20-5e. Monitoring of inmate telephone calls and electronic communications; procedures and restrictions; attorney-client privilege protected and exempted.

§31-20-5f. Charges assessed against inmates for services provided by the authority.
§31-20-5g. Pretrial risk assessment.
[Repealed.]

§31-20-5h. Programs for inmates committed to prison.
[Repealed.]

§31-20-8. Jail facilities standards commission; appointment; compensation; vacancies; quorum.
[Repealed.]

§31-20-8a. Juvenile facilities standards commission; appointment; compensation; vacancies; quorum.
[Repealed.]

[Repealed.]

§31-20-9a. Juvenile facilities standards commission; purpose; powers; and duties.
[Repealed.]

§31-20-10. Regional jail and correctional facility authority funds.
[Repealed.]

§31-20-10a. Criteria and procedures for determining the cost per day for inmates incarcerated in facilities operated by the authority and allocating cost.
[Repealed.]

§31-20-10b. Regional Jail Operations Partial Reimbursement Fund.
[Repealed.]

[Repealed.]

§31-20-12. Notes, security interests and bonds as general obligations of authority.
[Repealed.]
§31-20-13. Notes, security interests and bonds as negotiable instruments.


§31-20-15. Redemption of notes, security interests or bonds.

§31-20-20. Authorized limit on borrowing.

§31-20-22. Money of the authority.

§31-20-23. Conflict of interest; when contracts void.

§31-20-24. Agreement with federal agencies not to alter or limit powers of authority.

§31-20-27. Correctional officers; regional jails; priority of hiring.

§31-20-27a. Regional jail employees right to carry firearm; arrest authority of correctional officers.

§31-20-28. Limitations on contracts for sale of bonds or other securities.

§31-20-29. Furlough program.

§31-20-30. Limitation on reimbursement rate to medical service providers for services outside regional jail facilities.
§31-20-30a. Mechanical restraints during pregnancy.

§31-20-31. Work program.

§31-20-32. Jail processing fee.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-2. Costs in criminal proceedings.

(a) In each criminal case before a magistrate court in which the defendant is convicted, whether by plea or at trial, there is imposed, in addition to other costs, fines, forfeitures or penalties as may be allowed by law: (1) Costs in the amount of $60, of which $5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code; (2) an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code; and (3) costs in the amount of $30 to be deposited in the Regional Jail Operations Partial Reimbursement Fund created by §15A-3-16 of this code. A magistrate may not collect costs in advance. Notwithstanding any other provision of this code, a person liable for fines and court costs in a criminal proceeding in which the defendant is confined in a jail or prison and not participating in a work release program shall not be held liable for the fines and court costs until one hundred eighty days after completion of the term in jail or prison. A magistrate court shall deposit $5 from each of the criminal proceedings fees collected pursuant to this section in the Court Security Fund created in section fourteen, article three, chapter fifty-one of this code. A magistrate court shall, on or before the tenth day of the month following the month in which the fees imposed in this section were collected, remit an amount equal to the one-day per diem provided for in §15A-3-16(g) of this code from each of the criminal proceedings in which the fees specified in this section were collected to the magistrate court clerk, or if there is no magistrate
court clerk to the clerk of the circuit, together with information as may be required by the rules of
the Supreme Court of Appeals and the rules of the Office of Chief Inspector. These moneys are
paid to the sheriff who shall distribute the moneys solely in accordance with the provisions of
section fifteen, article five, chapter seven of this code. Amendments made to this section during
the 2001 regular session of the Legislature, are effective after June 30, 2001.

(b) A magistrate shall assess costs in the amount of $2.50 for issuing a sheep warrant and
the appointment and swearing appraisers and docketing the proceedings.

(c) In each criminal case which must be tried by the circuit court but in which a magistrate
renders some service, costs in the amount of $10 shall be imposed by the magistrate court and
is certified to the clerk of the circuit court in accordance with the provisions of section six, article
five, chapter sixty-two of this code.

§50-3-4a. Disposition of criminal costs and civil filing fees into State Treasury account for
Regional Jail and Prison Development Fund.

(a) The clerk of each magistrate court shall, at the end of each month, pay into the
Regional Jail and Prison Development Fund in the state Treasury an amount equal to $40 of the
costs collected in each criminal proceeding and all but $10 of the costs collected for the filing of
each civil action.

(b) The clerk of each magistrate court shall, at the end of each month, pay into the
Regional Jail Operations Partial Reimbursement Fund established in §15A-3-17 of this code the
fees collected pursuant to subsection (g), section one and subdivision (3), subsection (a), section
two of this article.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-14. Appointment of probation and parole officers and clerical assistants;
qualifications of officers; salaries and expenses.

[Repealed.]
§62-12-14a. Director of employment; director of housing; released inmates; duties.


§62-12-25. Parole supervision benefit fund.

ARTICLE 13. CORRECTIONS MANAGEMENT.

§62-13-4. Powers and duties of commissioner or director generally; compensation and funds of inmates.


§62-13-6a. Payment of jail fees to county commissions.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]
Chairman, House Committee
Chairman, Senate Committee

Originating in the House.

In effect July 1, 2018.

[Signatures]
Clerk of the House of Delegates
Clerk of the Senate
Speaker of the House of Delegates
President of the Senate

The within is hereby approved this the 29th day of March 2018.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

MAR 21, 1995

-Time- 3:39 pm